

UNITED STATES DEPARTMENT OF AGRICULTURE

NATIONAL ORGANIC STANDARDS BOARD

MEETING

WEDNESDAY

NOVEMBER 16, 2005

The Board met in the Captain's Room in the Channel Inn Hotel, 650 Water Street, S.W., Washington, D.C., at 9:00 a.m., James Riddle, Chairman, presiding.

PRESENT

JAMES RIDDLE	Chairman
ANDREA CAROE	Member
DAVID CARTER	Member
GOLDIE CAUGHLAN	Member
GERALD A. DAVIS	Member
RIGOBERTO I. DELGADO	Member
BEA E. JAMES	Member
HUBERT J. KARREMAN	Member
ROSALIE L. KOENIG	Member
MICHAEL P. LACY	Member
KEVIN O'RELL	Member
NANCY OSTIGUY	Member
GEORGE SIEMON	Member
JULIE S. WEISMAN	Member

ALSO PRESENT:

BARBARA ROBINSON,
Deputy Administrator for Transportation and
Marketing Programs

MARK BRADLEY
Associate Deputy Administrator for
Transportation and Marketing Programs

STAFF PRESENT:

BOB POOLER
ARTHUR NEAL

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P-R-O-C-E-E-D-I-N-G-S

9:09 a.m.

CHAIRMAN RIDDLE: Okay. I'd like to call the meeting to order. I guess I don't have to get too close to these mikes, especially in this room. And we still have one Board member not at the table, but George is here. He got in late last night, was just eating breakfast. So he will be joining us shortly.

I would like to thank you all for being here again. And good to see a full crowd, as usual. Continues to be interest in this program.

And I'd like to begin just with introductions of the Board members. And if you'd just tell a little bit about yourself and maybe something we don't know, something interesting anyway besides just name and rank and serial number and what sector you represent.

So, Goldie, would you like to start, please.

MEMBER CAUGHLAN: No.

CHAIRMAN RIDDLE: You don't have to. Just try to things interesting.

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1 MEMBER CAUGHLAN: I guess I'm looking
2 forward to putting a lot more time. My name is Goldie
3 Caughlin. I'm from Seattle. I work with PCC Natural
4 Markets, but I do not represent the retail sector. We
5 are a food cooperative. But I'm one of the three
6 positions that is available in some of the Boards for
7 consumer rep. And I've done a lot of consumer work
8 for the last 30 years in the state of Washington.

9 And I look forward to going back. I'm now
10 going to be working with the Food Producers Board as
11 well as in the state of Washington we have a joint
12 small farm -- there's a small farm program as
13 Washington State University and also a small farm
14 direct marketing program with the Washington State
15 Department of Ag. And we have formed a couple of years
16 ago and it has solidified a joint board. And I'll be
17 very pleased to work in regard to that board.

18 So I guess I'm still going to be a bored
19 board -- no, anything but bored. I think that what's
20 happening in our state I'm very pleased about some of
21 the directions in terms of the organic -- the bioag,
22 bio intensive and organic ag program which is going

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1 straight ahead in Washington state. And we're all
2 working on that.

3 CHAIRMAN RIDDLE: Thanks.

4 Hugh?

5 MEMBER KARREMAN: My name is Hubert
6 Karreman. I'm a dairy veterinarian in Pennsylvania. I
7 sit here at this seat representing the environmental
8 and resource conservation contingent. My background
9 was in resource economics and soil science, but for
10 the last 10 or 15 years, 15 years, I've been working
11 with dairy cows in the organic sector.

12 And most everybody that knows me knows
13 where I stand on things. I'm very transparent as far
14 as what I say and have my opinions, of course.

15 One of my main things that I hope to do in
16 the future is educate other veterinarians across the
17 country, livestock veterinarians about the organic
18 sector. And that's kind of my focus from this time on.

19 CHAIRMAN RIDDLE: Thanks.

20 MEMBER JAMES: My name is Bea James. And
21 I'm from Minneapolis, Minnesota, Director of National
22 and Organic and HPC for a 20 store chain, upscale

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1 mainstream grocery chain. And I represent the
2 retailer position here on the NOSB.

3 Everybody's giving industry news on their
4 one unique thing. I'll just say my one unique thing is
5 that I may dress in a tie, but I got two kids at home,
6 one of them's name is Harvest and the other one's name
7 is Forest. And so I do live the lifestyle.

8 CHAIRMAN RIDDLE: Rigo?

9 MEMBER DELGADO: Harvest and Forest.

10 Well, I also have an interesting name,
11 it's quite an icebreaker when you try to start a
12 conversation. It's Rigoberto Delgado, but the user
13 friendly version is Rigo.

14 I am a producer on the west side of Texas.

15 Been producing cotton for a number of years and now
16 I'm going into production of chickens. And I've been
17 quite successful producing eggs. So that's the latest
18 result from my experiment.

19 I'm an ageconomist by training and I have
20 a master's in business administration. And, yes, I've
21 done a lot of work in the corporate life but
22 underneath in the bottom I am an organic friendly

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1 person and I am very interested in working with other
2 groups of farmers there where we have our farm in west
3 Texas. We're starting to work with other smaller
4 producers in trying to get up a coop going. So,
5 that's the latest news in the front.

6 And in terms of interesting items, I did
7 start playing vegetarian until my children decided to
8 stop that. I think my wife agree with them, I'm
9 afraid.

10 MEMBER CARTER: Dave Carter, part of the
11 graduating class of 2006. Actually serve as the
12 consumer rep. What I do is half time I'm Director of
13 the of the National Bison Association, half time i'm
14 founder, one of the founders of a pet food company
15 called Pet Promise and half time do itinerate
16 consulting.

17 MEMBER CAUGHLAN: That's time and a half,
18 isn't it?

19 MEMBER CARTER: And so the unique thing I
20 guess about me is I happen to be married to the most
21 patient woman in the world, who is actually sitting in
22 the back of the room, my wife Sue today. Who a few

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1 years ago I left one job because I was traveling too
2 much and now I'm traveling about 70 percent of the
3 time.

4 I guess the other unique thing is that we
5 have some bison heifers down in Taos, New Mexico which
6 we would like to expand and eventually get started.

7 MEMBER DAVIS: Hi. My name is Gerald
8 Davis. I'm on the Board as a grower representative. I
9 have worked in organic agriculture in vegetable
10 farming and tree fruit production for 13 years.

11 And I'm kind of excited about the growth
12 in the industry and what I see going on. I work at
13 this time for a large organic vegetable farm called
14 Cal-Organic as an ergonomist and a pest control
15 advisor.

16 And I guess a new thing that would be nice
17 to mention would be that the farm I work for is now
18 owned by a larger conventional carrot farm that just
19 this year the organic portion of it took back 1200
20 acres of land from them because we have too much
21 demand for organic carrots and vegetables. And it
22 used to be the other way, and I'm glad to see that.

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1 MEMBER OSTIGUY: My name is Nancy Ostiguy.

2 I work in the Entomology department in Penn State.

3 I don't know if there's really anything
4 unique to say, probably most of you have noticed that
5 I have played around with my hands up here. I quilt,
6 and so there will be pieces of quilts being done while
7 I'm here.

8 The other thing I do is I do research on
9 honey bees. And we're having a lot of fun right now,
10 run sort of in the scientific sense of looking at the
11 viruses that impact honey bees. And we think we may
12 have found a virus that actually increases or can
13 impact the level of aggression in honey bees. So my
14 next thing is to try and find out whether or not that
15 virus is more prevalent in the Africanized bees. And
16 if so, we may have a way to deal with Africanized bees
17 so that they can be gentler.

18 CHAIRMAN RIDDLE: That's unique
19 information.

20 I'm Jim Riddle, organic inspector and
21 educator and certifier rep from Winnona, Minnesota.

22 And I'm really honored that my wife, Joyce

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1 Ford, is here today. And Joyce has been tremendous
2 support, help, inspiration and at times moderating
3 influence on me and other times she actually incites
4 me, and I have to moderate, believe it or not.

5 But some of you know that Joyce and I live
6 off the grid. We are not hooked to the electric grid,
7 produce all of our own power, solar and wind. And my
8 latest involvement as a volunteer in life is in my
9 home county, Winnona County, Minnesota has formed an
10 economic development authority and two of the projects
11 we're pursuing is putting up a big two megawatt
12 community owned wind generator, and then also building
13 local food systems. So I'm looking forward to some
14 local focus here in the coming years as well as
15 continuing national and other activities.

16 MEMBER O'RELL: My name is Kevin O'Rell.
17 And this is my fourth year on the Board representing
18 the handlers, processors in the industry. And I've
19 been involved in organic for the last ten years and
20 product development consulting and regulatory. I work
21 for a company that produces organic soy and organic
22 dairy products.

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1 I guess in my personal life my daughter
2 just turned 14 last week and my son turns 13 next
3 week. So he wants a guitar. So, Rigo, I think I'll
4 send him over your way for guitar lessons. But I
5 think my life's about to change drastically at home.

6 MEMBER KOENIG: Hi. My name is Rose
7 Koenig. I'm a producer in Gainesville, Florida. And
8 my husband isn't here because I am a true producer in
9 the sense it's a one-woman and a couple of interns
10 show. Although Barbara always writes to me and says
11 do you really -- yes. When I come in from the field I
12 always have time to kind of write off some interesting
13 things because it gives me a lot of time to think. So
14 I spend my time doing manual labor and letting my mind
15 wandering a lot of the time.

16 This is my last meeting, I think,
17 officially unless we hear something different, forever
18 and forever. So I've been thinking about that. And
19 it's been an interesting thing.

20 I have also two children, one turning 8
21 and one turning 10. And when I think about that the 8
22 year old was turning 3 when I just started the Board,

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1 it's pretty amazing to think. You know, sometimes you
2 look back and you think it's difficult now, but how
3 did I take off back then and leave my husband on the
4 farm and the two kids. Anyway, that's the
5 information.

6 MEMBER SIEMON: I'm George Siemon. I'm
7 here as a farmer rep. And I work with Organic Valley,
8 so I don't have much of a personal life anymore. I
9 guess at this age you live through your children, and
10 so the only thing I can say that's unique is my son's
11 been down at Cleveland, Mississippi feeding people for
12 70 days, about 1500 people a day. I'm going to get to
13 go down there next week and be there for Thanksgiving.
14 And then the Saturday after that, the local community
15 are going to have a thanks for giving celebration on
16 Saturday. So I've really been living through that
17 experience a little bit to see that Organic Valley has
18 been sending a lot of food. So it's been a very
19 exciting to be part of.

20 MEMBER CAUGHLAN: How old is that son?

21 MEMBER SIEMON: Twenty-five. Old.

22 CHAIRMAN RIDDLE: Spoken like a true dad.

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1 MEMBER CAROE: Hi. I'm Andrea Caroe. And
2 I'm environmental rep. And I work for a company
3 called Protected Harvest. I'm the Certification
4 Director. We certify farms to bio IPM practices.
5 They're not organic. We're trying to raise the bar of
6 conventional growers.

7 Let's see, interesting facts about me. I
8 think everybody knows me. I've been around the
9 industry for a while. I met Jim many moons ago in
10 Marquerita Hot Springs as I was training to become an
11 organic --

12 MEMBER SIEMON: That was the inspector
13 training.

14 MEMBER CAROE: I have two children as
15 well. I have a 13 year old son and a 16 year old
16 daughter. And those of you that haven't reached kids
17 of age 16, I could tell you some stories after a
18 couple of drinks. But life has changed for us with
19 the driver's license.

20 Anyway, I don't have any other interesting
21 facts.

22 MEMBER WEISMAN: My name is Julie Weisman

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1 from Tenaflly, New Jersey. This is getting towards the
2 end of my first year on the Board. I hold one of the
3 handler positions on the Board.

4 My family's business is a food ingredient
5 business. When I joined it ten years ago I brought
6 organic into it. One of our big products is organic
7 vanilla and other organic flavors. Most of our
8 business up until now has been on the conventional
9 side, and I am proud to say that there were two days
10 last month where organic shipped than conventional.

11 And I have two daughters 13 and 6. So,
12 yes, life has changed. I heard Kevin and I was like,
13 oh yes, I know where that is.

14 An interesting thing about me is that I
15 actually, my master's degree is in social work. I was
16 a psychiatric social worker before I was in the food
17 business.

18 CHAIRMAN RIDDLE: That will help you.

19 MEMBER CAUGHLAN: It'll help a lot.

20 CHAIRMAN RIDDLE: Thanks, Julie.

21 MEMBER LACY: I'm Mike Lacy from Athens,
22 Georgia. I work at the University of Georgia in the

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1 poultry science department. I'm the science rep on the
2 Board.

3 Had big news in my family from a children
4 perspective. I have one daughter that was married on
5 the 1st of October.

6 MEMBER CAUGHLAN: Ah, congratulations.

7 MEMBER LACY: And I survived. I have not
8 recovered.

9 CHAIRMAN RIDDLE: All right. Thanks.
10 Thanks to all of you for being good sports, too.

11 Announcements, are there any Board members
12 that have any announcements to share at this time?
13 Dave?

14 MEMBER CARTER: Just to let you know, I
15 will be leaving at about 11:15. I have a meeting up
16 at USDA at 11:30. So I'll be excusing myself for as
17 quick as I can to come back.

18 CHAIRMAN RIDDLE: All right. Thank you.

19 MEMBER CAUGHLAN: Will it involve a
20 buffalo? Will it involve a bison?

21 MEMBER CARTER: It will involve bison, but
22 not a live bison this time.

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1 CHAIRMAN RIDDLE: Not a live bison on the
2 mall this time. Okay.

3 Any other announcements?

4 Yes. I would like to let everyone know
5 that there will be two public comment sessions. One
6 today focused primarily on the Sunset Review and the
7 Committee's recommendation. And then tomorrow
8 afternoon on pasture. And if you haven't signed up,
9 there are separate sign-up books in the back of the
10 room. So you still can sign up.

11 And if you haven't just signed in for
12 attending the meeting here, please do so during a
13 break or at your convenience.

14 It says here on the agenda Chair's Report
15 and some comments. I guess I would like to make a few
16 comments before we get under way.

17 And one thing is just on a personal note,
18 it's been truly an honor to serve on the NOSB, and
19 especially an honor to serve with all of you. I think
20 that we have always operated with respect for one
21 another, even when there have been disagreements that
22 we have the ability to have open discussions. And I

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1 really appreciate all of the knowledge that all of you
2 bring to the table. So it's been an honor to serve
3 with all of you.

4 And looking back, I don't know of another
5 class, you know, of five appointees that have all
6 stuck it out all five years. There may have been.
7 Otherwise, usually somebody resigns for one reason or
8 another. So it's been extra special to be a part of
9 this group.

10 And, you know, we have faced various
11 challenges during the five years that we all have
12 served. But this past year has been especially
13 challenging, not for the Board and our function and
14 our functioning back and forth with USDA. I think that
15 that actually is better than it's been during the
16 previous times. That continues to improve, and that's
17 very encouraging. But outside of the Board has
18 certainly been a difficult and challenging year. You
19 know, first with the lawsuit and then the
20 clarifications to that lawsuit, and then draft rule
21 changes looking at minimizing disruption from the
22 lawsuit. And those could only go so far; not far

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1 enough for a lot of the sector's needs so that
2 amendments going through but not with full support or
3 not going unified to Congress. And that certainly has
4 left us in a very challenging position.

5 The one thing, you know, I think we just
6 have a lot of healing to do as a community and,
7 hopefully, people will commit to that. I mean the law
8 has been changed. We do have to learn a lot yet what
9 the ramifications of those law changes are, but there
10 will need to be new rules written to implement those
11 changes. And I trust that the Board will be involved,
12 that the public will be involved. There will be
13 proposed rules. There will be opportunities to comment
14 and be engaged. And, you know we have an opportunity
15 to refocus now and make sure that those rule changes
16 really protect organic integrity and incorporate the
17 ongoing role of the Board in that.

18 But one common theme that's been
19 encouraging despite all of the rhetoric flying back
20 and forth, one common theme in both industry and
21 public interest group positions has been to protect
22 and preserve the authority of this Board and to defend

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1 the recommendations of this Board that have gone
2 through the process we followed. And so I think we
3 need to, and this Board needs to continue to live up
4 to that responsibility.

5 And I look back during the five years.
6 You know, the rule was implemented, but that was on
7 track to be implemented when we were appointed. You
8 know, it was already out and so we just happened to be
9 on the Board at that time. But we have done a lot of
10 work ourselves. And among those accomplishments I
11 think having a Board policy manual in place certainly
12 guides the work of this Board on into the future, and
13 it a foundation document as well as the principles of
14 organic production and handling, having those down.
15 And the compatibility criteria that we worked hard on,
16 took a lot of public comments, as well as the new
17 synthetic and nonsynthetic draft. I think those are
18 some foundation pieces that we've put in place in our
19 time on the Board, as well as really solidify the
20 materials review process, the evaluation documents,
21 the statement of work for the contracts. I think
22 those are very solid pieces. Have been developed in

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1 cooperation with the program. And we've reviewed our
2 share of materials. Recommended some for approval and
3 others rejected.

4 But we also have put draft recommendations
5 for standards, apple culture, mushrooms, greenhouses,
6 have very good chlorine task force report. And some
7 of those things still need to be implemented, but they
8 should not be discarded or forgotten by this Board or
9 by the program.

10 And we've got Sunset well underway. But a
11 lot of the difficult work is yet to do. In a way,
12 we've picked the low hanging fruit, so to speak, for
13 this meeting, the noncontroversial materials. But the
14 challenge is going to be in the coming year dealing
15 with the materials that are being deferred at this
16 time.

17 I'll just close by saying that one thing
18 that I have seen as a responsibility as a Board
19 member, and I think the Board has taken this up, is
20 the Board needs to be an independent voice. Yes, we
21 work hand-in-hand with the program but we also need to
22 bring a perspective from the community, from the

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1 public to USDA to have a balance there. And so I just
2 encourage the Board on into the future to always
3 maintain an independent voice as needed and to stand
4 up for the principles. Work together as a group and
5 work together with the program, but don't be afraid to
6 take a stand as needed.

7 So with that, I'll move on the Secretary's
8 Report and Goldie is up. Just by way of introduction,
9 in our books for this meeting we do not have the
10 minutes meeting summary from the August meeting yet.
11 I imagine there have been a few other things going on
12 at the program and it's been a short time between
13 meetings. So I would just like the transcript from
14 this meeting to reflect that we have not yet addressed
15 or considered the minutes from the August 2005
16 meeting. Those will need to be reviewed and adopted at
17 the next meeting.

18 Goldie?

19 MEMBER CAUGHLAN: Well, I think the only
20 thing I would add is that I apologize, but I have not
21 transcribed the executive minutes from September.
22 Sorry. That will be getting done before I caught up

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1 in the Sunset.

2 By the way, I just have to come back in
3 here and talk about my kids and my grandkids.

4 I have been spending more time with my
5 grandchildren, certainly, because in the time that
6 I've been on this Board I've added two more to the
7 crew. I now I have six incredible grandkids from 3
8 months to 10 years. They're pretty much under foot a
9 great deal of the time, and that's wonderful. That's
10 the way I like it, too. So, thank you.

11 CHAIRMAN RIDDLE: Okay.

12 MEMBER CAUGHLAN: I'm the Secretary, and
13 that's the report.

14 CHAIRMAN RIDDLE: And you're sticking to
15 it.

16 MEMBER CAUGHLAN: And I'm sticking to it.

17 CHAIRMAN RIDDLE: But we do have minutes
18 from Executive Committee call from October 14th. I
19 think Dave and Bea worked together to capture those
20 minutes. And I guess I would like to ask if the
21 Executive Committee members to consider approval of
22 those minutes, since they're in the book at this time.

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1 Julie?

2 MEMBER WEISMAN: I just wondered if the
3 minutes could be amended to reflect the fact that I
4 was also on that call?

5 CHAIRMAN RIDDLE: Okay. And so we'll need
6 to revise those and resubmit an electronic copy.

7 Any other changes to those draft minutes?
8 Hearing none, is there a motion to approve, and this
9 would be a vote by the Executive Committee members?

10 MEMBER CAROE: I'll motion to approve.

11 CHAIRMAN RIDDLE: Andrea move to approve.

12 MEMBER OSTIGUY: Second.

13 CHAIRMAN RIDDLE: Nancy seconds.

14 Further discussion? Hearing none, all in
15 favor say aye.

16 EXECUTIVE COMMITTEE MEMBERS: Aye.

17 CHAIRMAN RIDDLE: Those opposed? All
18 right. Thanks. We have those approved. So we still
19 need to come back at the next Executive meeting,
20 hopefully, and consider the minutes from September
21 Exec meeting. Okay.

22 Next up we have the NOP report. And I'm

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1 not sure who is going to go first. Barbara. And once
2 again, if you'll introduce yourself for the record,
3 please?

4 DEPUTY ADMINISTRATOR ROBINSON: Barbara
5 Robinson, Deputy Administrator for Transportation and
6 Marketing Programs for the Ag Marketing Service.

7 And welcome, everybody.

8 As part of the update but before we get
9 started, I have just a couple of housekeeping things,
10 well one housekeeping announcement and one rather sad
11 announcement.

12 First of all, the reason you don't see
13 Katherine here, her niece was killed in an automobile
14 accident last Friday, and this is a niece who is very
15 near and dear to her and her family. And Katherine
16 just couldn't be here. I don't really even want to go
17 into the details, but she had to go and take care of
18 arrangements for the family. So she just couldn't be
19 with us here today and sends her regrets.

20 Just as a matter of housekeeping if you
21 hear a lot of planes and a lot of noise, because we
22 are on the river, the next couple of days NORAD is

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1 conducting exercises to mimic the post-9/11. So don't
2 get nervous if you hear and see a lot of planes when
3 you go outside. They're just trying to protect us, I
4 guess, or something. So just thought I'd like you
5 know that for people who are out-of-towners. Those of
6 us who are here sort of get used to that stuff.

7 Now, I'm going to turn this back to Jim
8 very briefly and then he's going to come right back to
9 me, but Jim has an announcement to make because the
10 first on the matter of update that I want to discuss
11 deals with dairy pasture. Jim and I, and I've had
12 several conversations with several of you on the Board
13 but Jim is the Chair, and so in deference to the Chair
14 and what the Department has agreed to do, it asked Jim
15 to go ahead and make the announcement. So, Jim?

16 CHAIRMAN RIDDLE: Yes. Okay. Thanks,
17 Barbara.

18 You know, we are having a public comment
19 period tomorrow on the pasture issue and the program
20 posted a request for comments for tomorrow's public
21 input session. But the Livestock Committee will be
22 considering a new draft that I have compiled that

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1 really pulls together all previous existing NOSB
2 recommendations on pasture, and they date back to
3 2000, and then 2001 and then we've had some earlier
4 this year. And so there will be a Livestock Committee
5 meeting after we recess today to consider that new
6 draft. And then that will be presented tomorrow
7 morning during Committee Chair reports on ongoing work
8 plan items. But we will not be moving for a final
9 vote by the Board because even though this doesn't
10 contain new concepts, the draft itself has not been
11 posted for a round of public comments. And that's
12 something that I'm always committed to is a public
13 comment because very soon I'll be on the other side of
14 this microphone. But I just believe that that is also
15 part of our responsibility.

16 But there is a new draft and it was
17 circulated fairly widely so a number of people and all
18 Board members have seen that. And there's a copy of
19 that draft in addition to your meeting book.

20 So that's kind of where the Board action.
21 And in discussions back and forth with Barbara my
22 understanding is the program is committing to move

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1 forward with an advanced notice of proposed
2 rulemaking, or ANPR. Hopefully to be out by the end
3 of January, but that's just a target. But it will be
4 based on the existing recommendations of the Board and
5 drawing from this draft, which really compiles all of
6 those as well as the public comments that we've
7 received and will receive tomorrow.

8 It's anticipated that there will be a 60
9 day public comment period on that ANPR. And during
10 that time the program and the Board hope to organize a
11 symposium or listening session somewhere in either
12 upstate New York or Pennsylvania, or in dairy country
13 to hear from dairy nutritionists, dairy producers,
14 veterinarians on the importance of pasture for
15 ruminant animals and directly in response to what is
16 in that ANPR.

17 So I think we are making progress. It
18 certainly has to be a thoughtful process to change the
19 rules. But I see that progress is being made or there
20 is a commitment to move forward based on existing
21 recommendations.

22 DEPUTY ADMINISTRATOR ROBINSON: Right.

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1 Thanks.

2 CHAIRMAN RIDDLE: Yes.

3 DEPUTY ADMINISTRATOR ROBINSON: I want to
4 get through all these rapidly because this is your
5 Sunset meeting.

6 We have completed the interviews for the
7 Executive Director position and we'll be getting back
8 to you. We asked all of the questions that you
9 submitted to us. And we want to put all the answers
10 together on some kind of a spreadsheet so we can get
11 back to you with those and give you our feedback, and
12 then get your reaction to the candidates. And we want
13 to get that done as soon as possible.

14 I'm not going to be here all next week. I
15 haven't had a day off, literally not one day off,
16 since the hurricanes hit. So I'm taking a day off next
17 week. In fact, I'm taking all of them off.

18 CHAIRMAN RIDDLE: Can you leave your cell
19 phone number?

20 DEPUTY DIRECTOR ROBINSON: No. No. But
21 we'll get something to you, hopefully, next week. I
22 don't know how fast we can get that spreadsheet put

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1 together, Mark. I can tell you personally who I would
2 recommend, and I think you'd be pleased with that.
3 But, at any rate.

4 On the NOSB nominees, the package is
5 across the street with the Secretary. And just for
6 information because I hear this all the time, we get
7 letters from folks, I thought I would just like to
8 tell you -- where are my notes? What kind of, what we
9 do. We received over 50 nominations from people. We
10 went out with 11,000 solicitations. We sent postcards
11 and solicitations to every certifying agent. Here we
12 go. Every single certifying agent in the United
13 States, every organic producer and handler, all of the
14 1862 land grant colleges, all the historically black
15 land grant institution in Tuskegee University, the
16 entire National Directory of Farmers Market and Direct
17 Marketing Associations, NRCS, California Federation of
18 Certified Farmers Markets, the North America Farmers
19 Direct Marketing Association, Farmers Market Online,
20 National Association of Farmers Markets, Southland
21 Farmers Market Association, Pacific Coast Farmers
22 Market Association, Washington State Farmers Market

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1 Association, Anacortes Farmers Market, Bainbridge
2 Island Farmers Market and the Black Farmers and
3 Agriculturist Association.

4 We solicited USDA's Farm Services Agency
5 outreach programs, which consist of African-American,
6 Asian Pacific Islanders, Hispanic Americans, American
7 Agro Women Affiliates, Women Watch Group, Women in
8 Agriculture, Women's Agricultural Network, Women's
9 Food and Agricultural Network, Rural Womens Network
10 and Women's Food and Agricultural Network.

11 So it's not like we just, you know, posted
12 in the *Federal Register*. I want you to know that we
13 really do try to get out there and canvas everywhere.
14 And we did get over 50 nominations.

15 And I think we got a good selection of
16 candidates. And when we forward the package across
17 the street to the Secretary, we don't leave anything
18 out. Everything we get goes to him. Absolutely
19 everything. Everything that everybody sends in along
20 with every single of recommendation. He gets it all,
21 every bit of it. We don't hold anything back. So
22 the package that went to the Secretary was about two

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1 feet think.

2 Because we had a resignation, a vacancy,
3 he has to select all three consumer representatives,
4 the certifying agent representative and two producer
5 representatives. So we'll hopeful that he'll make
6 that selection soon so that we can seat the new Board
7 members quickly as they need to be seated.

8 MEMBER CAUGHLAN: Barbara, excuse me?

9 DEPUTY DIRECTOR ROBINSON: Yes.

10 MEMBER CAUGHLAN: In the past -- it's
11 Goldie.

12 DEPUTY DIRECTOR ROBINSON: Oh, there you
13 are. Okay.

14 MEMBER CAUGHLAN: Right. Respectfully I
15 would say that in the past two or three rounds we have
16 been taken into consultation on a short list for
17 responses from two regarding appointments. Is that
18 not to be the case this time?

19 DEPUTY DIRECTOR ROBINSON: That's always
20 the Secretary's prerogative, Goldie.

21 MEMBER CAUGHLAN: Right.

22 DEPUTY DIRECTOR ROBINSON: I don't have

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1 any say over it.

2 MEMBER CAUGHLAN: I see.

3 DEPUTY DIRECTOR ROBINSON: And so every
4 Administration or every Secretary chooses whether or
5 not to do that. And this Secretary has not elected
6 to. And the previous Secretary did not elect to. So
7 I just, you know, I can't say to them now you really
8 need to do this. Call it what you will, I just don't
9 quite have the nerve to go to the Secretary and say
10 you really out to post all these. So that's just
11 simply their prerogative to do.

12 MEMBER CAUGHLAN: No indication that
13 that's going to happen then? Thank you.

14 DEPUTY DIRECTOR ROBINSON: No.

15 Let's see, oh, obviously since we last met
16 I have had Mark Bradley as the Associate Deputy
17 Administrator.

18 (Applause).

19 DEPUTY DIRECTOR ROBINSON: Mark has
20 already discovered a phrase that I decided I hate. He
21 continues to insist that this job is fun. And if he
22 says it one more time, I'll smack him.

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1 MEMBER OSTIGUY: Barbara?

2 DEPUTY DIRECTOR ROBINSON: But as long as
3 he thinks it's fun, that's good.

4 MEMBER OSTIGUY: Barbara?

5 DEPUTY DIRECTOR ROBINSON: What?

6 MEMBER OSTIGUY: It's better than the
7 alternative.

8 DEPUTY DIRECTOR ROBINSON: This is true.
9 This is true. But Mark does bring a wealth of
10 experience, as many of you know, to this job. And I'm
11 very, very pleased for him to have assumed this
12 position and look forward to working with him. He's
13 got a lot of good ideas. I think he's going to do a
14 lot of the things that this Board has wanted for a
15 very long time. And has already put in place a lot of
16 the procedures that you have asked for. And so I
17 think you'll be happier as a Board and we certainly
18 will be happy, too.

19 In fact, after I'm done I'm going to turn
20 this over to Mark.

21 Now just very quickly, and I do mean
22 quickly because we're in a state of flux about this,

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1 we had a long discussion in August about sort of where
2 were we on the lawsuit. Now Congress has come along
3 and they've passed H.R. 2744, the appropriations for
4 the fiscal year 2006, which has been signed in the
5 last week by the President. And that appropriations
6 bill did contain the rider which changed the Organic
7 Foods Production Act.

8 Now, what does that mean? We are still
9 looking at that. But the bottom line is we still do
10 have some rulemaking to do to comply with the court
11 order that we were bound by as a result of the Harvey
12 lawsuit. For example, Congress did not do anything
13 with the 8020 feed provision and the court still said
14 that that was illegal. So we are in contact with the
15 U.S. Attorney in Maine and he still our legal counsel
16 through the Department of Justice. And so we are bound
17 to reply to the court by June 2006. We can't just say
18 oh well Congress passed a law so I guess we can just
19 ignore the court. We can't do that. We still have to
20 in effect closeout our dealings with the District
21 Court of Maine and our U.S. Attorney will advise us
22 how best to do that.

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1 My guess is, and again like I told you in
2 August I'm not a lawyer, my guess is that a lawyer
3 will say we'll have to comply with whatever Congress
4 didn't touch and that where Congress monkeyed somewhat
5 with what the court did, we may have to go back to the
6 court and petition for some sort of relief or
7 something and reconcile where there is a conflict
8 between what the court told us to do and then what
9 Congress came along and kind of undid or contradicted
10 in some fashion.

11 The bottom line to all of that is for USDA
12 we have rulemaking to do regardless. The question is
13 in what time frame will we have to complete this
14 rulemaking. Obviously, since Congress may have
15 overridden what the court has done, we won't have to
16 do rulemaking by 2006. The bottom line for industry
17 is it's back to business as usual for industry with
18 respect to the National List. That has been restored
19 to the current state for the 38 materials, or
20 depending on how you count, I mean I've seen 36, 27
21 and 38 materials counted on that list. But the
22 National List is the National List. And everybody had

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1 until June 2007 anyway before life changed.

2 So if anybody came to me and said what
3 should I do, I would say go on about your business and
4 wait for the Department. The Department needs to issue
5 a statement. We have not done that yet because we are
6 waiting for good legal counsel to tell us how we have
7 to proceed and what our determinate deadlines are.
8 And as soon as we get that we will be, I'm sure,
9 required by the Secretary and by legal counsel to
10 issue a statement publicly. Something that goes on
11 our website and something that is cleared and either
12 issued by the Secretary himself or his office, but we
13 will have to issue a statement publicly. And my advise
14 to my superiors will be the sooner we issue something,
15 the better.

16 So we are in the process right now of
17 preparing the factual talking points. Putting
18 something together that ready for clearance. So as
19 soon as our legal counsel tells us here's what you're
20 going to have to do, we've got all of the guts of it
21 ready to go and all we need to do is insert the
22 deadlines.

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1 The one thing that Jim made a point at the
2 beginning in his remarks and the one thing that I
3 think we can definitely agree on from the Department's
4 point of view, you know whatever our statement
5 contains, I can tell you this: It will be a statement
6 for the facts, here's what Congress did, here's how
7 Congress may have changed the law and how it may be
8 different from what the court did. We'll leave the
9 political pundits of who did what to whom and
10 misconceptions out there to other people. That's not
11 our job. However, the one thing that we will
12 reiterate, as Jim said, is the role of this Board. And
13 the role of this Board was not changed either by the
14 court or by Congress. The Secretary has no authority
15 to put a synthetic on the National List. And that is
16 one thing I want to clear up right here and now.

17 I've heard this. I've heard this I don't
18 know how many times in different times. Congress did
19 not give the Secretary any authority to put a
20 synthetic on the National List anywhere. Not
21 anywhere. So I've never heard a Board member say
22 that, by the way. I'm certainly not saying that. But

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1 I've heard it in the press. I've heard people say it.
2 That's not true. That is absolutely not the case.

3 And by the way, another statement that I
4 heard Jim make that I fully agree with, any rulemaking
5 that will be done will be done collaboratively with
6 the Board and with the public. We don't do rulemaking
7 without going through a public notice and comment
8 process. That is illegal. And I, for one, personally
9 as long as I'm the Deputy Administrator, ain't going
10 there. So we're going to have an open above board
11 transparent discuss it, very collaborative process.
12 Not just with you on the Board but with the public.
13 It's not worth anything else. So, that's what we're
14 going to do.

15 It's just a matter of getting our ducks in
16 a row, finding the time line and getting there. But
17 your role has not changed.

18 Now I'm going to go to Mark and he can
19 update.

20 ASSOC. DEPUTY ADMINISTRATOR BRADLEY: BoY.
21 Thank you, Barbara. And thank you for this job.
22 It's fun.

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1 CHAIRMAN RIDDLE: Your name for the
2 record, please?

3 ASSOC. DEPUTY ADMINISTRATOR BRADLEY: My
4 name is Mark Bradley. I'm the Associate Deputy
5 Administrator?

6 DEPUTY DIRECTOR ROBINSON: Yes.

7 ASSOC. DEPUTY ADMINISTRATOR BRADLEY: Got
8 a little title creep going on in D.C. I used to be
9 the Program Manager, but I think they've changed all
10 that and this title is much more vague and less
11 descriptive, but it sounds important. But really all
12 I still do is manage the staff and try to keep work
13 going through the NOP. Trying to make sure that
14 everything gets done that needs to get done, and try
15 to set up some kind of a management strategy that will
16 have to be my own. Each of my predecessors, Keith one
17 of them, Rich Matthews has had their own style about
18 how they dealt with people and programs and progress
19 through the NOP. And I'm looking forward to putting my
20 own little spin on that.

21 And, as Barbara said, there are some
22 things that the Board has been pushing for that I will

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1 be pressing for myself. You may know, I come from a
2 long line of quality system audits and background
3 especially with the ISO 65 program. So I'll be
4 looking to inject a lot of that management strategy
5 into how the NOP is handled, how we get some kind of a
6 cycle of continuous improvement, transparency in
7 processes, accountability, record keeping. Those are
8 the kind of things when you're trying to implement a
9 new rule, as you know we've been trying to do for the
10 last few years, sometimes in the process of just
11 getting everyone accredited and getting things settled
12 down and implemented, we have a little bit more of a
13 luxury now having gone through the work that this
14 Board, especially the graduating class of 2006, has
15 done. It's settled a lot of the issues that we can
16 start getting down to some work as far as quality
17 systems management and establishing a routine that
18 people know what to expect. Board meetings at regular
19 times, you know, addressing regular issues. Planned
20 well advance. I think this is the rose colored glasses
21 that Barbara was telling you I was looking through,
22 but I'm looking forward to doing all that.

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1 And thanks for -- I hope I can live up to
2 her expectations of me.

3 The first thing before I get into the
4 report, Barbara mentioned that we just had a nice
5 round of interviews with candidates for the Executive
6 Director's position. It was a lot of fun and it was
7 fun -- oh, I didn't say that, did I? I love this job.

8 That's the other one. The other one you may hear on
9 occasion is all I ever really wanted to do is sell
10 vegetables by the side of the road. Somebody I'm going
11 to be able to do that, too.

12 MEMBER KOENIG: I'll hire you if you
13 resign.

14 ASSOC. DEPUTY ADMINISTRATOR BRADLEY:
15 Thank you, Rosie.

16 But the questions that the Board put
17 together on very, very short notice; thoughtful, they
18 were interesting. I think the people that were
19 interviewed enjoyed answering them. They gave a lot of
20 detailed insight. They were the primary questions
21 that we used. There were six questions. We kept very
22 copious notes. And I think the product is something

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1 that you're going to be interested in, perhaps,
2 perpetuating.

3 That level of involvement was a good level
4 for the Board, too. It could have got cumbersome if,
5 you know, you had wanted to seat a panel and had to be
6 sworn to secrecy and drag the process out. But that
7 allowed us to maintain some privacy for the
8 candidates. There were some folks there that, you
9 know, when you apply for a job and you interview you
10 take a little bit of a chance that those that don't
11 get selected have to go back and work for whoever they
12 were working for. So they were able to maintain some
13 privacy. But I think you will be pleased with the
14 product that you'll have a chance to look at and
15 comment on, and we'll consider that.

16 I know that you're familiar with the folks
17 that normally sit at the table up here. Bob Pooler
18 and Keith Jones, Arthur Neal, Merideth Wilson up here.
19 There are a few folks that are new on the staff.

20 J.D. Melvin in the back. If you could
21 stand up, J.D.? Any certifiers that are calling in,
22 don't call me anymore, call J.D. You're welcome to

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1 call me anytime, but J.D. will be handling a lot of
2 the traffic that comes through. He and Mary Lou Lusby
3 will be contacts for the accreditation staff. Those
4 are functions that I held in a former life, and
5 hopefully can move on. J.D. is very highly qualified.

6 He has about 20 years in government service working
7 with commodities certification type programs. And he
8 will be a good person to groom into that position, and
9 he is functioning in there now. Has really picked up
10 the ball.

11 Mary Lou Lusby handles the record keeping,
12 the movement of documents. Is very meticulous. Has
13 set up tracking systems where we can do a very good
14 job keeping track of who is sending in updates and the
15 materials that have to come through the program on a
16 regular basis.

17 We have a new writer editor, I didn't know
18 if you wanted to introduce him. Mike Smith.

19 DEPUTY DIRECTOR ROBINSON: Mike Smith is
20 here.

21 ASSOC. DEPUTY ADMINISTRATOR BRADLEY: He's
22 the newest person on the staff up here. And he doesn't

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1 work for me, he works for Barbara. But we're looking
2 forward to having him putting some policy on our
3 documents and really I know he's going to be a big
4 asset for Barbara in their shop.

5 Jim has asked specifically for an update
6 on the state cost share programs. I don't know if that
7 usually happens at this meeting, but I was glad to
8 provide that. Bob Pooler, who is our state person, and
9 he put together some talking points.

10 There are two programs for the cost share
11 program. The AMA program, the Agriculture Marketing
12 Assistant program was targeting 15 states and it's
13 part of the Federal Crop Insurance Act. And there were
14 15 states that were historically had not participated
15 as much with the Federal Crop Insurance program. So
16 there was a million dollars obligated annually to
17 support this program.

18 Thirteen of the 15 states routinely
19 participate. The other two states, Delaware and Rhode
20 Island participation, lack of producer participation
21 is reason that they're not participating in it,
22 although they could. The funds for that, since 2001,

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1 they've had an average \$373 provided to 1150 producers
2 who have participated in the program. A total average
3 dispersement of \$430,000.

4 Now the other program, the national
5 program is geared toward, it's a one time allocation.

6 And all the funds for that have been finally
7 distributed or obligated, rather. In March of 2005 the
8 final \$2.1 million had been obligated on that. As of
9 that date the funds that had been used by 6100
10 producers for an average benefit provided \$475.41.

11 Is that the level of information you
12 needed on that, Jim? Does that help. Much detail?

13 CHAIRMAN RIDDLE: Yes. And then the other
14 part is remaining funds in the national -- I
15 understand you said they've been obligated.

16 ASSOC. DEPUTY ADMINISTRATOR BRADLEY: Yes.

17 CHAIRMAN RIDDLE: Do you have a handle on
18 what's still in the account as a total?

19 ASSOC. DEPUTY ADMINISTRATOR BRADLEY: The
20 funds have been obligated. We haven't, I don't think,
21 heard back as far as those were actually used and
22 dispersed. And the figures that we have are as of

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1 March 2005.

2 CHAIRMAN RIDDLE: Okay. And then if a
3 state has used all of their funds, is there a
4 possibility to request a reallocation of some
5 remaining funds that may not have been used by other
6 states?

7 ASSOC. DEPUTY ADMINISTRATOR BRADLEY: I
8 don't know if that --

9 MR. POOLER: That can only occur if states
10 don't utilize their funds.

11 This is Bob Pooler. We're getting reports
12 back about how states are utilizing the funds. If
13 states are showing or exhibiting the fact that they're
14 not using funds, we will request funds back from that
15 state so another state that is in need of funds can
16 use it. But we're not at that level yet. We're now
17 getting reports as to what their activity is. So I
18 imagine sometime early in the spring we may know more
19 information.

20 CHAIRMAN RIDDLE: Okay.

21 ASSOC. DEPUTY ADMINISTRATOR BRADLEY: All
22 right?

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1 CHAIRMAN RIDDLE: Yes. Thanks. Got that.

2 MR. NEAL: Now for those of you who can
3 focus your attentions to the west --

4 CHAIRMAN RIDDLE: And you are?

5 MR. NEAL: Arthur Neal. We'll begin to
6 see the sunset on the NOP report.

7 I just want to update you on materials.
8 With respect to Sunset requests or requests for
9 technical evaluations, we have received the reports
10 for flavors, spices and oxytocin. You will be
11 receiving them as soon as get back to the office,
12 probably tomorrow. After the meeting I'll email these
13 out to all of you. So by the time you get home, you'll
14 have them to review.

15 The requests for newspaper aquatic plant
16 extracts, humic acid and fish emulsions, we had
17 received. They needed some more work. So additional
18 work will be done on those. Once we receive them,
19 you'll get them back. They weren't in shape to send
20 forward to you.

21 CHAIRMAN RIDDLE: Just a question on that
22 to be clear. Does the Board need to do more work in

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1 clarifying that or --

2 MR. NEAL: You will have an opportunity to
3 do that.

4 CHAIRMAN RIDDLE: Yes.

5 MR. NEAL: But it didn't meet our standard
6 of even sending it forward to you.

7 CHAIRMAN RIDDLE: Okay. Okay.

8 MEMBER KOENIG: Okay. So are we doing
9 that same process then with these? You give us a week
10 to evaluate to see if they're technically okay.

11 MR. NEAL: Right.

12 MEMBER KOENIG: We give you the okay.

13 MR. NEAL: You got 21 days.

14 MEMBER KOENIG: Okay.

15 MR. NEAL: Twenty-one days to see what
16 extra questions you have. If it meets the standard.
17 If you want to see something in addition, you can make
18 another request and we send it back out. But before
19 we got to that point for the four that we sent back,
20 we didn't think that they were even ready for you to
21 make that type of decision.

22 CHAIRMAN RIDDLE: Okay.

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1 MR. NEAL: Okay.

2 CHAIRMAN RIDDLE: All right. Thank you.

3 MR. NEAL: We have sent forward a request
4 for chlorine materials for crops processing and
5 livestock.

6 We have sent forward a request for -- no,
7 we have not sent forward a request. There were two
8 more substances, streptomycin.

9 DEPUTY DIRECTOR ROBINSON: Yes. And
10 tetracycline.

11 MR. NEAL: And tetracycline. They have
12 been sent forward. But they got so much on their
13 plate, we may end up transferring that request to
14 another contractor.

15 There's been a lot of talk about NOP as
16 behind in petitions. We are. We do have a backlog of
17 petitions, but it's not as great as many people
18 believe. The only reason why we haven't moved a lot
19 of petitions for it is because we've got the
20 contractors working on Sunset technical evaluations.
21 So it's hard for them to do all of them at the exact
22 same time.

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1 So, just an update. We have a petition
2 for sulfuric acid as a pH adjuster in the processing
3 of manure. That petition has been moved forward for
4 technical evaluation, so we hope to receive a report
5 by the technical contracts by mid to late January,
6 although with the reports for Sunset.

7 Propionic acid has been petitioned for use
8 as a feed preservative. We're sending that forward.

9 Gellan gum has been petitioned for use in
10 processing. We're sending that forward.

11 Lime mud was one that was petitioned back
12 in the fall. We have the report on that and we have
13 sent that report out to Committee members last year.
14 We'll send it back out again because I know there's a
15 lot that's transpired since then. And we'll still need
16 to hear feedback whether or not if the report meets
17 the standard.

18 We've received a petition for sodium
19 laurel sulfate for use in crop production. The
20 Committee and I had talked last year about this
21 particular substance. And the Committee said it's
22 already approved for use on the list as herbicidal

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1 soap, but there's a restriction on it. This petition
2 wants the restriction to be modified. So we're going
3 to move that forward.

4 In the recent months we have received
5 three petitions for 606 items, spices, lecithin and
6 pectin. These are all on hold until we can work out
7 criteria for how to evaluate the additional removal of
8 an item on 606.

9 We've also received a petition of sea salt
10 onto the National List and pelargonic acid.

11 MEMBER CAUGHLAN: What.

12 MR. NEAL: Bob may have to help me on this
13 one. I think it's P-E-L-A-R-G-O-N-I-C. Is that
14 right, Bob? Yes. Short chain fatty acids.

15 And that's a short update on where we are
16 with respect to materials. Okay.

17 CHAIRMAN RIDDLE: Rose?

18 MEMBER KOENIG: Where is the status of the
19 -- because one of the reasons like with the soy
20 protein isolate that you didn't mention that's been on
21 hold has been -- and even for most of these, the
22 synthetic/nonsynthetic document, what's the status of

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1 that?

2 MR. NEAL: Good question.

3 MEMBER KOENIG: Because it's going to be
4 tying us up on any of these technical reviews until we
5 can really do the job we want to do and make sure
6 we're consistent.

7 MR. NEAL: Good question. The document is
8 still under review. The nonsynthetic/synthetic
9 document is still under review by the Department by
10 the program. We hope to have a response by early
11 spring on that document. So you'll have it well
12 enough in time to review those materials for
13 recommendation. That's the goal.

14 It's not a simple thing in reviewing the
15 document. What we're finding is that some of the terms
16 that were even used don't even match up to other
17 federal regulations, like substance. The definition
18 of substance that's in that document doesn't include
19 food. FDA has a definition of substance that it
20 includes food. So there's some things that we have to
21 work out. Because whatever we do, it has to be
22 universal that we can apply it across the board.

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1 CHAIRMAN RIDDLE: Hugh?

2 MEMBER KARREMAN: Question what my
3 question will be, Arthur?

4 MR. NEAL: Yes, sir.

5 MEMBER KARREMAN: About the livestock
6 materials, any updates on that?

7 MR. NEAL: Thanks for reminding me, Hugh?

8 MEMBER KARREMAN: Have they come from FDA
9 and all that?

10 MR. NEAL: Yes. I've left off the dockets
11 altogether.

12 Comment period closed for the crops and
13 processing docket on yesterday. There have been
14 comments posted to the website.

15 The livestock docket, unfortunately, has
16 come back to NOP once again for additional work. We
17 thought that it was wrapped up. We just got it back.

18 And so we'll start working on it at the close of the
19 meeting to get back into Agency review to get through
20 the lawyers.

21 Yes, sir?

22 MEMBER KARREMAN: Could you let us know

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1 what's wrong at this point that they're looking for?

2 MR. NEAL: They've got questions
3 concerning -- you have the applications of FDAs,
4 AMDUCA, which is the Animal Medicinal --

5 MEMBER KARREMAN: Drug Use Clarification
6 Act.

7 MR. NEAL: Right. And one of the issues
8 is that there are a number of substances that were
9 recommended by the Board that had no approved
10 livestock use but were only approved for use in
11 humans. And so, yes, they were --

12 MEMBER KARREMAN: They're technically
13 approved for, let's say, equine or non-lactating dairy
14 cows but they are approved for livestock?

15 MR. NEAL: Right. But at the same time
16 there's a restriction on FDA on some of those
17 materials. It says for use in non-food animals.

18 MEMBER KARREMAN: That's correct, but
19 that's where the AMDUCA would kick in.

20 MR. NEAL: Right.

21 MEMBER KARREMAN: Right.

22 MR. NEAL: But what our lawyers want us to

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1 do is to get clarification that there is no approved
2 animal drug that could complete the same task that the
3 one that you all have recommended. And AMDUCA
4 requires that.

5 MEMBER KARREMAN: I realize there's a
6 algorithm for that. And if you need any help, I'm
7 happy to help you with that.

8 MR. NEAL: Well, we'll be in contact
9 because this is something that we just got back. And
10 these are the hoops that we got to jump through to
11 make sure that everybody understands that what we'll
12 doing is legal. Because if the average consumer says
13 well this thing isn't approved by FDA for use in
14 animals, in food producing animals, but they're
15 recommending it when it's only approved in use for
16 humans?

17 MEMBER KARREMAN: Some of them are
18 approved for, let's say, ruminant livestock less than
19 20 months of age.

20 MR. NEAL: Yes.

21 MEMBER KARREMAN: I realize what you're
22 saying, but it's not really a human verse animal

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1 thing. I think it's more the annotation on the label
2 of the medicine itself. I think there's a little more
3 leeway than perhaps --

4 MR. NEAL: There may be from a
5 veterinarians perspective. But when you go to FDA
6 regulations and how they have approved the drug,
7 especially like this new substance -- h ow do you
8 pronounce it? That's not an FDA animal approved drug.
9 That's --

10 MEMBER KARREMAN: Okay.

11 MR. NEAL: But we don't want to get into a
12 discussion during this period.

13 CHAIRMAN RIDDLE: There will be a
14 discussion back and forth.

15 MR. NEAL: Correct. Unfortunately.

16 CHAIRMAN RIDDLE: But not today.

17 MR. NEAL: Right.

18 MEMBER KARREMAN: It's been a while.

19 MR. NEAL: Yes, I know.

20 CHAIRMAN RIDDLE: I'm glad you brought it
21 up.

22 MR. NEAL: Methionine has been added back

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1 onto the National List.

2 CHAIRMAN RIDDLE: That's final rule.

3 MR. NEAL: As a final rule.

4 CHAIRMAN RIDDLE: For three more years,
5 right?

6 MR. NEAL: 2008, correct.

7 CHAIRMAN RIDDLE: 2008.

8 MR. NEAL: Yes, ma'am?

9 MEMBER KOENIG: The other document, I
10 don't know if you've considered it or you're reviewing
11 it, but reorganization of the list by the OFPA
12 categories. I don't know if you've done any analysis
13 on that. And then, I mean, we can hold off this
14 question for Sunset, you know, in terms of your answer
15 but I'll ask during that little Sunset review section
16 after lunch. But I'll let you think about it now. Is
17 the question we had whether or not things that might
18 not be approved for Sunset if we have a technical
19 report, can we go ahead and -- if we needed a change
20 in annotation, I'm talking about materials where the
21 question is maybe in an inappropriate annotation, we
22 had asked that at a Executive Committee call whether

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1 if we have the technical report, if we could go ahead
2 and leave it until 2007, not approve it for Sunset.
3 But then relist it with a different annotation.

4 MR. NEAL: Let's talk later, because I'm
5 not clear on the question.

6 MEMBER KOENIG: Okay. Okay. And then the
7 OFPA category, too.

8 MR. NEAL: Right. OFPA categories is also
9 under review by the lawyers as well. It's the
10 language issue. What's considered a production aid,
11 can that production aid category be extended to mean
12 anything. And one of the things that you have to take
13 into consideration is if production aid -- if the
14 category production aids is a catch-all category, that
15 means that synthetic fertilizer now could probably be
16 on the National List with no problem. So, there's some
17 questions that you got to think about legally, and we
18 need guidance on it. We can't answer it, say, what
19 does this production aid category mean. Does it wipe
20 out all of the other prohibitions in OFPA? And I
21 can't give you that answer. So it's under review. And
22 we hope to have a response for you by the spring.

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1 For those things that you recommended at
2 the last meeting, we really hope to have responses by
3 the spring meeting. And we'll be on consultation with
4 you prior to the meeting, well enough in advance so
5 that no one will be caught off guard.

6 MEMBER KOENIG: Because a lot of those
7 documents we're finishing up and we're going
8 officially off the Board, how do you expect to handle
9 the wrapping up of those documents? I know we won't
10 vote on it because we wouldn't be members. But we
11 would be consulted?

12 I guess my great fear is that, you know,
13 you get five new people on and these documents that
14 have been in the pipe for a while, just losing that
15 consistency.

16 MR. NEAL: Well, this is my vision. The
17 new members probably won't be appointed -- they
18 probably will be appointed before the next meeting,
19 hopefully. However, in the interim you're still going
20 to have to work on the documents prior to the meeting.
21 You may not vote at the meeting, but you'll have great
22 input before the meeting. And because of the

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1 complexity of many of the issues being dealt with in
2 the documents, we look for many of you to still be
3 engaged in the discussions. And there's nothing wrong
4 with that. You just may not have the vote. That's it.

5 CHAIRMAN RIDDLE: Okay. Thanks.

6 Any other questions?

7 MR. NEAL: Oh, Mark's got one more update.

8 CHAIRMAN RIDDLE: Okay. Well, thanks,
9 Arthur.

10 Mark?

11 ASSOC. DEPUTY ADMINISTRATOR BRADLEY: Just
12 one other thing that I wanted to add in, Jim. As part
13 of the new management cycle I was alluding to, we're
14 setting up a regular training period during January
15 and February. And we're going to try to scatter
16 these out around the country. I don't know what kind
17 of international training we're going to get to do
18 this year. But for the U.S. we've got training
19 locations being set up for California, Colorado,
20 Wisconsin in the northeast somewhere.

21 The two events that we're firm on right
22 now in conjunction with the EcoFarm Conference at

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1 Asilomar, we're going to be training on January 25th.
2 And that is the day before the kick-off happens in the
3 evening on that event. So we're having some training
4 out there. And that's firm.

5 And also in Wisconsin on February 23rd in
6 LaCrosse at the Upper Midwest Organic Farming
7 Conference.

8 Those two events are firm and then we're
9 working on the events possibly one in Denver in
10 cooperation with Colorado Department of Agriculture
11 and also in the northeast somewhere.

12 MEMBER JAMES: Mark, could you elaborate a
13 little bit on exactly what the content of the training
14 is going to be focused on?

15 CHAIRMAN RIDDLE: And these are accredited
16 certifying agent trainings.

17 ASSOC. DEPUTY ADMINISTRATOR BRADLEY: Yes,
18 for accredited certifiers.

19 Every year as part of our quality
20 management system we do an analysis of all the
21 nonconformances that we've identified for certifiers
22 through the course of the year. The audit review and

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1 compliance staff conducts their audits worldwide now.
2 And we analyze what they're finding to identify a need
3 for training. It's part of the regular ISO system.

4 So what we've identified this year, we
5 have identified key processes that need to have
6 attention paid to them. First is going to be the
7 certification process in general, the sequence of
8 events and make sure everyone's clear on how the
9 regulations read and what the standard for applying
10 that is.

11 We're seeing a need for materials
12 evaluation to make sure that when they have authority
13 to address a material issues or when they needed to
14 refer something to the Board. We don't want to
15 overload the Board with questions, but they do need to
16 know where they need to draw the line and defer to the
17 Board for review.

18 The compliance process, the definition.
19 There needs to be some clarification as far as
20 nonconformances, whether or not they call them
21 nonconformances. The regs refer them to -- compliance,
22 rather. Monitor noncompliance. If they are issuing

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1 certifications just based on conditions and not
2 calling them a noncompliance. We want to make sure
3 that there's a clear understanding as to what has to
4 be reported to AMS compliance so that they can open
5 the sequence of events that happens from notice of
6 noncompliance, proposed suspension to revocation and
7 revocation with the appeals process in there.

8 It's important that we receive initial
9 reports on the noncompliances so that they can create
10 the entire picture to make sure that the process is
11 served. So that certified operations aren't just
12 dismissed or decertified or revoked or suspended
13 without having the process that's due to them.

14 Label evaluations will be touched on
15 briefly.

16 And then we're getting ready for the first
17 round of reaccreditation. Those announcements will
18 start going out in April of 2006 to give them a year's
19 notice. So we're going to tell them how that process
20 is going to work. It's going to be just pretty much a
21 repeat of what they did last year, or the last time
22 when they first implemented it. But we're looking for

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1 a little bit more information about certifier
2 qualifications. The regs are not specific about what
3 it takes, what the critical mass for an accredited
4 certifier is, so we want them to tell us in terms of
5 qualifications, experience, education, training; paint
6 us a complete picture so that the Accreditation
7 Committee can look at this and make sure that people
8 are fully qualified and that they define those
9 qualifications. They're not just saying we're
10 qualified because we say we're qualified.

11 And we'll be working with the Board on
12 those issues. That's one of the things that I would
13 like to get in front of the Board for discussion,
14 comments, maybe a recommendation. I don't know if it
15 would cause any reg work, but something we can look
16 at.

17 Bea?

18 MEMBER JAMES: One more question. Will
19 the locations, dates, times, content of the training
20 be posted on the website?

21 ASSOC. DEPUTY ADMINISTRATOR BRADLEY: They
22 will.

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1 MEMBER JAMES: Okay.

2 ASSOC. DEPUTY ADMINISTRATOR BRADLEY: Bob
3 is working on the training syllabus right now. We're
4 working on that together.

5 The dates have just been firmed up within
6 the last week. We knew that we wanted to work with
7 these events, but Asilomar and the Upper Midwest
8 Conference were pretty much established. The
9 trainings that we're looking at in Colorado and the
10 northeast are things that we're having to design and
11 try to key them in with other events. So as other
12 events are identified that we can kind of catch people
13 that are gathering up anyway, we'll tag them in with
14 those. But, yes, we will post them on the website.

15 Thanks.

16 CHAIRMAN RIDDLE: All right. Thanks. And,
17 Mark, I just wanted to remind you that the Board has
18 adopted a compliance guidance document which was quite
19 detailed. And hopefully, that will be helpful. And if
20 it was off base, I'd certainly like the Board to be
21 informed of that.

22 ASSOC. DEPUTY ADMINISTRATOR BRADLEY:

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1 Absolutely.

2 CHAIRMAN RIDDLE: Okay. Well, thanks,
3 Barbara, Arthur, Mark for your comprehensive report.

4 We're scheduled now to begin public
5 comments, but we also by the clock would have a break
6 coming up very soon. So I think why don't I give the
7 names of the first two people to comment once we come
8 back from break, and read the rules now for
9 commenting. And then we will try to take a break.

10 So first the rules and the names to hold
11 your interest.

12 In our Board policy manual we have a
13 established policy for public comments. And those
14 are:

15 All persons wishing to comment must sign-
16 up in advance, and that has happened.

17 And you'll be called on in the order to
18 speak. If you're not present when your name is called,
19 I'll make a note of that, come back at the end of the
20 list and I'll give you one more chance. If you're not
21 present then, well then you've forfeited your
22 opportunity.

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1 You'll be given five minutes to comment.

2 And you're asked to give your name and
3 affiliation when you begin your comments.

4 You may carry a proxy so long as that has
5 been submitted in advance. And if you do have a
6 proxy, please mention that at the beginning of your
7 comments because you can be given an additional five
8 minutes for a total of no more than 10.

9 And all persons providing comment will
10 refrain from any personal attacks or remarks that
11 otherwise impugn on the character of any individual or
12 company.

13 So with that, when we come back from a 15
14 minute break at 10:45, Joe Smiley will be first and
15 Cayce Warf on deck.

16 MEMBER CAUGHLAN: How many do we have?

17 CHAIRMAN RIDDLE: There's 20 people signed
18 up for comment on --

19 MEMBER CAUGHLAN: We were to have started
20 this earlier, so I was wondering.

21 CHAIRMAN RIDDLE: Right. We're running a
22 little late, but I think it's been time well spent.

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1 And we will get all the Sunset comments in before we
2 then move on to the Committee reports and actions.

3 So 10:45. Please be prompt.

4 (Whereupon, at 10:29 a.m. a recess until
5 10:45 a.m.)

6 CHAIRMAN RIDDLE: And today's public
7 comment session, we're asking commenters to primarily
8 focus on the Sunset Review. And there have
9 recommendations from each of the three committees
10 posted for about the last three weeks. And the most
11 helpful comments will be comments that focus on those
12 recommendations, especially if there are substances
13 recommended for deferral at this time that you feel
14 should not be deferred or there's no adequate grounds,
15 or if there are substances that have been recommended
16 for renewal that you feel the Committee has erred and
17 they should be deferred for further study. But this
18 is really not a time to debate the substances that are
19 commended for deferral. Those we'll be taking a very
20 close look at in the coming year, in the coming months
21 and year.

22 So, at any rate, if you can focus your

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1 comments on the Sunset recommendations, those would be
2 extremely helpful to the Board at this time.

3 And first up we have Joe Smiley. You're
4 heading the wrong direction, Joe.

5 And Goldie is not in the room. Goldie is
6 the timekeeper typically. Is she prepared. Do you
7 know how to work that? Yes, you can test that. Okay.

8 Bea? Well Goldie knows.

9 Two quick things before you start, Joe.
10 As I was saying, Goldie is the timekeeper and you'll
11 have five minutes. And she will hold up a sign giving
12 you a one minute warning. But if you don't see the
13 sign, that's really not her problem. The time will
14 keep ticking.

15 And there may be a problem, however, that
16 some people emailed to Katherine Benham in the last
17 day and half, and she was out of the office. So if
18 you requested to make comments in the last day and a
19 half by email, your name is not probably on this list.

20 So if you've just did it here at the last minute,
21 make sure and check and we'll get you in if that's
22 your situation.

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1 Okay. With that, Joe Smiley.

2 MR. SMILEY: Right. Well, thank you very
3 much. Joe Smiley, Quality Assurance International.
4 Not Neal Young doing the well tour.

5 But I'd like to thank the NOSB for all
6 their work. I'd like to especially thank the
7 graduating class of 2006 for all of their great work.
8 I mean, we've got a lot of work to do. We've seen it
9 and I think that NOSB is in a good position to do that
10 work. And I think that everything that's been said
11 over the last couple of years about the growing
12 cooperation between NOP and NOSB is well founded, and
13 we look forward to that.

14 When Mark was in here, I was going to
15 congratulate him on his new job. He said that job
16 description was more vague and less description, and
17 we all know that's not how Mark works. So looking
18 forward to working with Mark and getting precise about
19 a lot of the terms that we use. Especially these days
20 because a lot of the issues that we're now going to be
21 faced with are going to really require precision and
22 accuracy, consistency and clarity.

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1 I also appreciate Jim's and Barbara's
2 comments on the recent congressional action. I think
3 once the blogs, the Senates the media dies down and we
4 get the facts the table, I think that we're all going
5 to be able to work together and move forward to do
6 what we're here to do, which is to keep the integrity
7 in organics and to convert U.S. agriculture to
8 methodologies. Those are both noble aims and I think
9 both can be accomplished. I don't think there's a
10 dichotomy between them.

11 I'd like to get to the point and endorse
12 the NOSB recommendations. It's obviously a good start,
13 as Jim said. Using a favorite industry expression,
14 "You've picked the low hanging fruit," which is good;
15 the low hanging fruit has to be picked. And so that's
16 solid. We support it.

17 I especially support the deferral of
18 lecithin. I think it's one of those perfect examples
19 of how this rule really evolves and works that
20 lecithin shouldn't be on the list that we are seeing
21 moving in to start to provide organic materials.
22 And I think we see that across the board.

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1 I know as a certifier we are not supposed
2 to -- Mark's not here for my little plug. But we're
3 not supposed to advocate one way or the other, which
4 we don't. We're there to enforce. And let me tell
5 you, our job is tough without clarity and consistency.

6 We as certifiers have to make decisions all the time
7 on what's allowed and what's not allowed, commercial
8 availability and the Sunset. And your work really
9 helps us do our work. And we look forward to a lot
10 more clarity and consistency in the rule.

11 As you know, we've got a lot of issues
12 coming up. Sunsetting is just the beginning. The 606
13 issues, all the materials issues are going to be
14 crucial.

15 In working with new companies that are new
16 to our organic that apply for certification and bring
17 to us their IPPs, their individual product profiles,
18 all of their list of materials it really is getting
19 complicated. It's really getting difficult to make
20 decisions. And, again, we're not an accredited
21 certification agency making decisions for multimillion
22 dollar, multinational companies with products that are

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1 extremely complicated. And so for us we need the
2 support of the NOSB and the NOP and really being clear
3 so that we have consistency across the board in our
4 examination and in our acceptance or denial of the
5 materials.

6 And so I know that's the job of the NOSB.
7 I appreciate what you've done to date.

8 Mark, you missed my comments. Too bad. But
9 you love your job anyhow.

10 But we'll do what we can to make it work.

11 And we appreciate your work. But I do want to
12 stress, and I know you've heard it a million times, we
13 can't just keep on waiting and waiting and waiting for
14 some of these things. We've got to get answers. And
15 quite frankly, as a company, we don't really mind what
16 the answer is as long as we get an answer and we are
17 allowed to enforce it.

18 So again, God speed. And hopefully we'll
19 start to get clarity and consistency quicker and
20 quicker as we go along.

21 Thanks.

22 CHAIRMAN RIDDLE: Okay, Joe.

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1 Kevin, question of Joe?

2 MEMBER O'RELL: Well, actually, it's just
3 a point of clarification as opposed to a question.

4 Joe, because you brought up the lecithin
5 issue on the deferral. And I just wanted to make sure
6 that the public was clear on that.

7 When the Committee had gone into the
8 discussion on 205.606 item that's really where we had
9 our broad based discussion regarding lecithin. And
10 had agreed at that time then to defer lecithin for
11 some additional background information. Then the
12 point was raised that on 205.605(b) on the synthetics
13 lecithin unbleached, we had passed that or put a
14 recommendation to pass lecithin bleach on 205.605(b).

15 But after the discussion on 606 we went back and the
16 Committee put together a motion and second
17 recommendation for which we were going to defer
18 lecithin bleach on 206.605(b).

19 Now that's what's published in our
20 handbook here today. It may not have gotten published;
21 I didn't check to see if it got on the website on time
22 for everybody to see that. But I wanted to make that

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1 point very clear that the recommendation for deferral
2 both on 606 and the beach lecithin on 605(b)

3 MR. SMILEY: Well, that make sense. That
4 makes sense.

5 CHAIRMAN RIDDLE: Thanks, Kevin.

6 Okay. Cayce Warf and then Mark Kastal.

7 MR. WARF: Good morning. My name is Cayce,
8 two syllables.

9 CHAIRMAN RIDDLE: I'm sorry.

10 MR. WARF: Thank you. Cayce Warf,
11 Director of R&D for Alcide and EcoLab. And I support
12 the approval for the NOSP Handling Committee's
13 recommendation on the Sunset Review List 205.605(a)
14 and (b).

15 Furthermore, I would like to take this
16 opportunity to comment and seek clarify relative to
17 past and future materials relative to this Sunset
18 Review process. Specifically, the category of
19 antimicrobial rinses.

20 If you look at the NOP you don't find
21 antimicrobial rinses listed there. It should be.
22 These rinses include acidified sodium chlorite, which

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1 I will call ASC for brevity, and peracetic acid
2 solutions, which I will call POAA.

3 As a preface to my comments and the
4 request I want to place before the Committee, I want
5 to offer a couple of background comments.

6 First, I think very strongly that ruling
7 on the acceptance or nonacceptance of materials in
8 organic processing should be guided by environmental
9 soundness, not synthetic versus nonsynthetic. Because
10 there are organics that are not very environmentally
11 sound, but are approved. Conversely, there are
12 synthetics that are really environmentally sound but
13 not acceptable to many in the organic community.

14 Second, I offer this quote for the Board's
15 consideration. "The NOP is a marketing program that
16 offers consumers an alterative choice and is based on
17 sustainable practices. It is neither a food safety nor
18 health program and by law cannot supersede any
19 regulation promulgated by FDA, EPA, FSIS or APHIS or
20 any other regulatory agencies charged with overseeing
21 safety in food and/or in agriculture or the
22 environment." That is a quote from Barbara Robinson in

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1 a letter stamped January 4, 2003, which a copy is
2 attached to my comments here.

3 I want to focus on two of the best food
4 antimicrobial products that are commercially used
5 right now; peracetic acid and also ASC. Both
6 compounds are strong, broad spectrum, oxidative
7 antimicrobials. Microbes cannot develop resistance to
8 either of these compounds. And the reaction products
9 of both are benign.

10 For peracetic acid, for example, the
11 reaction products are acetic acid, which is vinegar and
12 water.

13 Now let me take a few minutes about ASC,
14 acidified sodium chlorite. It breaks down into citric
15 acid and water in common table salt, all of which
16 occur in the agri-eco system.

17 ASC solutions do not chlorinate
18 organics as does chlorine or bleach. Acidified
19 sodium chlorite solutions are mixed of sodium
20 chlorite, which is a salt and citric acid. Citric
21 acid, as you know, is a principal component of lemon
22 juice. Sodium chlorite is used in drinking water, is

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1 a precursor for making cornoxide, which by way is the
2 NOP.

3 Recently one certifying agency has
4 declined to certify a processor if that processor uses
5 ASC to control salmonella incidents on organic poultry
6 carcasses. We need consistency from all USDA
7 accredited certifiers on this particular issue here.

8 I will say that ASC is not an ingredient.
9 And in my comments I've given you chapter and verse
10 on that. It is a food contact substance, and therefore
11 should be outside the purview of the NOP.

12 Again, in the letter that attached that is
13 the opinion that was voiced by Dr. Robinson in 2003.

14 Thank you. Any questions?

15 CHAIRMAN RIDDLE: Jim?

16 MEMBER KARREMAN: So you're saying it's
17 food safe to issue using this goal to enhance food
18 safety?

19 MR. WARF: Yes, it will.

20 MEMBER KARREMAN: And isn't APHIS in
21 charge of that, or Food Safety Inspection Service?
22 FSIS or APHIS?

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1 MR. WARF: Oh, yes. ASC, for example, has
2 been used to treat 9 billion pounds of chicken in the
3 United States. That's a third of all the chicken in
4 the United States has been treated or is being treated
5 with sodium chlorite as for a salmonella reduction
6 intervention.

7 CHAIRMAN RIDDLE: I just would like to
8 point out that peracetic acid has been petitioned and
9 recommended --

10 MR. WARF: Yes.

11 CHAIRMAN RIDDLE: -- for addition to the
12 National List. Have you petitioned for consideration
13 of ASC?

14 MR. WARF: Three years ago we put a
15 petition in and then we got a letter from Dr. Robinson
16 that in our mind took it out of a need to put on the
17 list because it was a food contact substance. And,
18 again, that letter is attached to this. And that is
19 outside the purview of the NOP because the residues
20 are of no consequence, and therefore it's not an
21 agreement into the final product.

22 CHAIRMAN RIDDLE: Yes, I understand that.

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1 I don't know if you understand, though, that the
2 whole food contact substance issue is certainly
3 controversial. And the way to have clarity on use of
4 the substance is to petition. There are numerous other
5 processing aids, similar substances that have been
6 petitioned and reviewed by the Board. And gets gives
7 clarity in a public process and whether it's
8 appropriate for use in organic. So I encourage you to
9 resubmit that petition.

10 MR. WARF: All right. And I would
11 encourage the Board also to look at calling this as a
12 food contact substance that does not need the List,
13 but I understand that it would be good for the public
14 to have it on a list, one way or the other.

15 Thank you.

16 CHAIRMAN RIDDLE: Thank you.

17 Mark Kastel and then Emily Brown Rosen.

18 MR. ROSEN: Good morning, all. My name is
19 Mark Kastel, I'm the Senior Foreign Policy Analyst
20 with the Cornucopia Institute.

21 And dispel any nasty rumors that have been
22 going around, this life threatening injury to this ear

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1 was not caused by a hit man in Chicago contracted with
2 a large aggra business firm. One of my buddy's hockey
3 sticks last Friday night went in the wrong place.

4 At any rate, we'd first like to take this
5 opportunity to welcome the Associate Deputy
6 Administrator to his new position. Mark, you've
7 treated me and other staff members at the Cornucopia
8 Institute with courtesy and respect, and we really
9 appreciate that. We look forward to working with you.
10 Much luck in your new position.

11 And all these comments will be brief
12 concerning materials. I want to thank the Board. This
13 is not easy work. It's dense and there are probably
14 more fun things to do with your volunteer time. But
15 you've done a wonderful job I think reviewing all
16 these materials. The only ones we're going to comment
17 on the record concerning our livestock materials
18 because of our areas of expertise.

19 First of all, we support the
20 recommendations of the Board. Further, we wanted to
21 comment on the therapeutic hormone treatment using
22 oxytocin and the parasiticide Ivermectin. We think

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1 it's very appropriate to defer those. We will be
2 submitting survey results, which we're just
3 completely, where we've interviewed the practices
4 et.al. organic dairy marketers in the United States on
5 a number of issues, one of them being therapeutic
6 hormone use. And there's a very large percentage of
7 those respondents indicating that they do not allow
8 their producers to use oxytocin. So I think a record
9 will show that it's not universally believed that it's
10 necessary.

11 We're not on the record making that
12 statement today. We want to review these surveys and
13 we will submit them.

14 I want to take just a couple of minutes to
15 talk, not about pasture policy, but about the process
16 that this Board is going to engage in the next day
17 with your Livestock Committee meeting. I want to
18 emphasize that we really want you to take the most
19 aggressive action that you feel which is within your
20 purview this meeting. I want to make sure that you're
21 aware of the fact that somewhere between 30,000 and
22 40,000 written comments were submitted to the

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1 Secretary's office within the last few weeks asking:

2 (1) That this Board be allowed to address
3 as an action item the pasture document that you're
4 going to be reviewing, and that;

5 (2) Asking the Secretary to open up the
6 nomination process for this body for public comment.

7 There's a lot at stake here in the future.
8 We want to make sure that the appointees are the most
9 qualified. There's no one who has a better handle on
10 that than the folks around this table and the folks in
11 this room, and the people they represent. And we'd
12 certainly like the Secretary to have the benefit of
13 that.

14 Just in a perspective, those 30,000 to
15 40,000, there were 50 comments to HHS concerning avian
16 flu after they posted a *Federal Register* notice. There
17 were 2268 comments to the FDA after they posted a
18 *Federal Register* notice concerning the morning after
19 pill or plan B.

20 Thank you, Goldie.

21 So this is an overwhelming response from
22 consumers. There's been five years of public input.

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1 The material you're going to be reviewing has all been
2 vetted by this Board and voted on by this Board.

3 You'll notice there isn't a lot of farmers
4 here today, and I only know of a couple who be here to
5 testify tomorrow. So how long will we continue down
6 this road when this started, as Jim said, there was
7 one CAFO producing organic milk that it caused this
8 concern. There are eight either operating or
9 intransitional plans right now. And this spiraling out
10 of control and we really ask you to step up and be as
11 aggressive and timely in your response as possible.

12 And I thank you for this opportunity.

13 CHAIRMAN RIDDLE: Thanks, Mark.

14 Hugh and then Dave.

15 MEMBER KARREMAN: A question on your
16 survey you're doing for the oxytocin. Did you say
17 you're surveying the marketing processes or are you
18 surveying the actual farmers that find the --

19 MR. KASTEL: Yes. Thank you, Hugh.

20 We are just completing a survey, a ten
21 month study of the management practices at every
22 branded organic dairy product in the United States and

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1 some private labels who have chosen to participate,
2 though the percentage of that participation is pretty
3 low.

4 Our principal interest was what practices
5 in terms of pasture their producers are utilizing, but
6 we also interviewed them concerning replacement cattle
7 practices. And one of the questions how they monitor
8 their farmers if they do place restrictive
9 prescriptions than the NOP implements. And one of the
10 questions was concerning therapeutic hormone use as a
11 variable in a group of about a dozen questions.

12 In some cases these marketers said well we
13 just defer to NOP regulations. We don't do anything
14 more than that. If they say, they're certified, we
15 don't look any further. There are some that have field
16 people and do extensive interviews and checking on
17 their own so that if they make labeling claims; for
18 instance if they make a claim no hormones on their
19 label, someone else might make no milk producing
20 hormones on their label. Then they could not
21 violating the label integrity use oxytocin. So we
22 want to make sure those labels are truthful and of

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1 value to the consumers.

2 And we will be rating on all these issues.
3 In addition to our narrative report we will be issuing
4 a rating of every dairy brand in the United States to
5 empower consumers and wholesale buyers to make good
6 purchasing decisions based on the management practices
7 on the farm.

8 CHAIRMAN RIDDLE: David and then Nancy.

9 I'd like to remind us we need to keep
10 moving.

11 MEMBER CARTER: Just a real quick
12 question. Did you include anything on this survey in
13 terms of parasiticides?

14 MR. KASTEL: No, we didn't. Sorry, Dave.

15 CHAIRMAN RIDDLE: Nancy?

16 MEMBER OSTIGUY: And when you publish
17 this, will you publish the questions specifically that
18 you asked?

19 MR. KASTEL: Yes, absolutely. Yes. Yes.

20 CHAIRMAN RIDDLE: Thank you. Thank you,
21 Mark.

22 MEMBER CAUGHLAN: And when is that due?

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1 MR. KASTEL: About two months ago. If I
2 wasn't here, maybe it would be out. But we really,
3 really hope that within the next 30 days it will be
4 published.

5 MEMBER CAUGHLAN: Thank you.

6 MR. KASTEL: Thank you.

7 CHAIRMAN RIDDLE: Okay. Emily Brown Rosen
8 and then Tom Harding.

9 MS. BROWN ROSEN: Hi. Good morning. My
10 name is Emily Brown Rosen. I'm a consultant. My
11 company is called Organic Research Associates. And
12 I'm also working for Pennsylvania Certified Organic as
13 their materials manager twice a month product review
14 for organic farmers.

15 I'd like to thank you for the careful
16 review of the comments that were all filed on the
17 Sunset docket. There was a lot of comments filed, and
18 it looks like that NOSB carefully look at all of them,
19 which I'm sure wasn't easy. But I do have a couple of
20 comments on some of them.

21 One was about chlorine, and I understand
22 from the discussion earlier that there are already --

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1 because from reading your docket from the Handling and
2 Livestock Committee that chlorine was mentioned there.

3 But it sounds like you are doing a TAP review on
4 chlorine anyway for those. Okay. So I spend a lot of
5 time. The main part of my comment was that it needed
6 to be done for all three. So that wasn't clear. So I
7 will skip over that.

8 I do have references in here on some of
9 the uses in livestock and handling production that
10 should be taken into consideration. But the main
11 problem is it's been very inconsistently applied, the
12 chlorine annotation across the board. Certifiers are
13 going by all different policies. So some people are
14 allowing any amount of chlorine to be in contact with
15 food, if the waste water is only four parts per
16 million, some are requiring any amount used followed
17 by a rinse in contact with the food, some have set
18 more in between standards. So we need to figure out
19 what is appropriate for organic and get something
20 workable and enforceable that can be uniform.

21 In the crops paper you talked about
22 deferring hydrogen peroxide because it might not be

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1 essential. And new information in putting its use in
2 the environment and residue, at least as a sanitizer.

3 Hydrogen peroxide is formed from hydrogen
4 and oxygen breaks it down and those are the two end
5 products. So I don't think residue is an issue. And
6 this is discussed in the TAP review on peracetic acid.

7 You might want to check into that, the references
8 there may be useful in your question answering as far
9 as uses.

10 I would say it's also used in greenhouse
11 production of the sanitizer. It's recognized by FDA
12 for pathogen reduction in sprouts that are infiltrated
13 into the water in a sprout growing situation.

14 And it may also be used in organic potato
15 production to stop sprouting.

16 So there are definitely uses and I have
17 some references on that. And I don't know if you
18 really need to defer it or not, but you can look at
19 that.

20 Then the question of off the categories
21 for hydrated lime and hydrogen peroxide. I want to say
22 that originally the NOSB recommendation was that

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1 Bordeaux mixes (copper sulfate and hydrated lime)
2 would be allowed as a fungicide. And that was back in
3 1995. When the rule got published, the Bordeaux mix
4 is not on the list but copper sulfate and hydrates
5 lime are separate.

6 Copper is an off the category. Lime may be
7 sometimes without copper. We have lime sulfur. Sulfur
8 isn't off the category. But in general lime is a
9 mineral, so minerals are on off the category. So I
10 would think between being used a fungicide in
11 combination and being mineral that it would meet the
12 general category.

13 Hydrogen peroxide, I just want to remind
14 you of your own recommendation that you adopted in
15 August of '05 about product aids. And I know Arthur
16 addressed this, but I think you agreed on defining aid
17 that should also include active substances using pest
18 control disease, weed insect and nematodes. And you
19 stated clearly it was the intent to include other pest
20 control options in this category because of the
21 specific listings of sticky barriers, tree wraps and
22 seals, insect traps, roll covers, etcetera. So I

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1 think that's a very good basis for your definition,
2 and I hope you can operate on that basis of that
3 definition. Because we have a number of substitutes
4 for pest control potassium -- well, I guess potassium
5 bicarbonate is a mineral, but there's a number of very
6 benign materials that are much better than copper for
7 disease control. So, I think you've got an option
8 there.

9 I forgot to say I have a proxy from Leslie
10 Zook. Can we add that on? I don't expect to go over
11 too much.

12 MEMBER CAUGHLAN: I'll add it one when
13 you're through.

14 MS. BROWN ROSEN: Okay.

15 Okay. On the handling substances, again, I
16 appreciate that you're doing the TAP review. Inspector
17 Warf has mentioned this is an issue on, especially on
18 poultry rinsing.

19 I checked on the website. There were two
20 petitions filed in 2002 and it's just never been done.
21 It needs to be done and so we can clear up the
22 confusion on that issue.

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1 In the livestock uses, chlorine is also
2 very commonly used as a sanitizer, clean in place
3 dairy lines. It is required at certain levels on egg
4 washing for processing eggs that are broken for
5 processing. So we need to look at it in context of
6 other rules, other regulations.

7 And it's also implanting in a lot of
8 TTSPPs. So it's in more places than you think.

9 Okay. So I just wanted to make one little
10 comment about the docket. Coming from the docket that
11 were due yesterday on the proposed docket. And I'm
12 sure there were a lot of -- or I hope there were a lot
13 of comments posted. But, you know, there's a lot of
14 confusion over the synthetics because they were all
15 listed only with made with organic annotations and
16 now, obviously, that's going to be changed. Although
17 we're not sure exactly how. But two points there.

18 Especially there's two materials that are
19 on the list which I'm not in support of at least in
20 their present form, is tetrasodium pyrophosphate and
21 sodium acid pyrophosphate.

22 When I went to review the background

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1 information on TAP, SAPP, there was no TAP review
2 posted, there was no evaluation posted. In the
3 minutes you can find records of the discussion of the
4 supplemental TAP review but it's never been available
5 publicly. So I think that should be deferred from the
6 final rule until all this information can be public
7 and we can make public comments on it.

8 I think in light of a lot of the
9 discussion about synthetics and processing, this might
10 be a good candidate for maybe an organic
11 classification, and I'd like to see all of the
12 background information before that goes final. And
13 the same thing with TTSP. The petition and the review
14 criteria and I couldn't find the TAP review, and I
15 looked. So it's not all there. It's not well
16 documented. And I think it needs more considering all
17 the public concern about adding more synthetics at
18 this point, these two are not well documented and we
19 need to be really firm on this before they get out and
20 for what category.

21 So, any questions?

22 CHAIRMAN RIDDLE: Thanks, Emily.

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1 Tom Harding representing no proxy. And
2 then John Wood on deck.

3 Tom?

4 MR. HARDING: Good morning, everyone.

5 And I do want to add my special thank you
6 for all of you new coming Board members, the old ones
7 leaving. I'm sure you feel a little older now.

8 And I certainly want to thank the NOP and
9 the staff for their good work as well.

10 I think we've had a lot of criticisms and
11 I think we've come a long way, and I was pretty
12 impressed with this morning. I think it's really
13 important that we continue to work together. This is
14 our rule, not anyone else's. And that we need to work
15 hard at it.

16 But I really want to thank those who are
17 leaving the Board. You've done an enormous amount of
18 work.

19 I do want to follow up on one thing. I
20 think synthetic and nonsynthetic issues have to be
21 resolved as quickly as possible and not later. It's
22 an issue that I think will effect everything you're

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1 reviewing now on the Sunset issues, and also
2 everything that you're going to be reviewing in the
3 future. So it's a really important issue.

4 Also the agriculture versus the
5 nonagriculture issues.

6 Anyway, I'm here this morning. Tom
7 Harding. I represent Agrisystems International. We
8 work with a number of producers and coops and value
9 added producers in this country and around the world.
10 And we've done that for nearly 30 years.

11 I want to talk first of all about the
12 issues of your recommendations. I think it's really
13 important that we move forward your recommendation,
14 both on the Handling from the Livestock and the Crops
15 Committee. And I think you've done a fairly good job
16 of looking at those things that are problematic on
17 those lists, and that includes all of the materials
18 list.

19 I do think that we need to be clear about
20 a couple of things, and that's where I want to get
21 into my comment next. And that is the issue of food
22 contact substances.

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1 When the proposed rule came out recently,
2 we speak of TMD 0401 or TM 0401, whichever it may be,
3 specifically about peracetic acid. I mean that
4 material, with a number of other materials, was
5 petitioned on the basis with use for organic products.
6 And the language came out for use with made with. And
7 I understand why that took place. I think it's very
8 important and I want to encourage you to move it back
9 where it belongs. That's one issue. And that's for
10 the handling side in 205.605(b).

11 The other issue is peracetic acid relative
12 to livestock. I presume now from what I heard
13 earlier, that that's going to come out in a separate
14 proposed rule, and we'll be hearing about that soon.
15 But I would encourage you, because it's a valuable
16 material, it's a very benign material. It's really
17 important that we look at under 205.603(a).

18 The big issue for me, though, and those
19 minor definitions that we have in there, they're
20 pretty clear, they were your recommendations and I
21 supported them basically, and we do. And we have a
22 number of letters that's already been filed on behalf

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1 of these materials and Crops, Livestock and Handling.

2 Now you remember that peracetic acid is already in
3 two different places in crops. You've already approved
4 it, it's already been made, it's already on the list.

5 I think it's really important we take materials like
6 this and move them forward in a very productive way.
7 But for me, anyway, it's clear that we move them back
8 where they belong. That we recommend that they be for
9 the use of organic and not made with organic.

10 The other thing that's really important,
11 and that was the issue that was alluded to earlier,
12 both by Dr. Warf and Emily, and that's the issue of
13 include contact substances in general. I think it's
14 really important that we pay fundamental attention to
15 getting that clarity extremely clear. And I'm going
16 to read the issue from the standpoint that it's really
17 important to us. I work with a lot of different
18 certifiers. And even though it's under the same rule,
19 sometimes it's not the same results. And it's not
20 their fault, it's our fault. We haven't clarified
21 this issue for them. So I want to make it very clear.
22 This is not dumping on the certifier, because they

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1 have enough work to do as it is.

2 I also want to remind that for livestock,
3 anyway, the European Union and the UK have already
4 approved these materials. So it's really important
5 that we understand.

6 This is important to us from the
7 standpoint of those of us who support trade that we
8 have these kinds of materials in the trade system.

9 The other thing is I want to speak
10 specifically about the issue of food conduct.
11 Finally, and it is absolutely essential to the organic
12 industry, and especially to the USDA credited
13 certifiers that the NOP in conjunction with the
14 established review, evaluation and recommendations
15 process of the NOSB provide a clear, legally
16 enforceable interpretation and an administrative
17 policy that eliminates the confusion and inconsistent
18 interpretation of the use of food contact substances
19 in or on products labeled 100 percent organic, organic
20 and made with organic.

21 We look forward to your positive and
22 timely action on this. And I thank you for that.

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1 And I want to just say this: It's not
2 about whether we should or should not petition, Jim.
3 You made a very important point. We don't know whether
4 we should petition or not. And I think it's really
5 important that if we have good materials, that we move
6 them forward. If not, we vote to send them back and we
7 put them to asleep. But we do need clear guidance. I
8 would say all certifiers would echo that.

9 And I want to thank you again for your
10 hard work, all of you. And welcome aboard, Mark.

11 CHAIRMAN RIDDLE: Thanks, Tom.

12 And I do want just point out that on the
13 issue of the annotation being added in the *Federal*
14 *Register* notice of proposed rule for peracetic acid
15 and those other substances, on behalf of the Board and
16 with Andrea's input, we did submit comments to the
17 program earlier this week consistent with that same
18 message; the things we recommended for organic use,
19 that that's the annotation that should appear.

20 MR. HARDING: Well, you're always ahead of
21 us, and I thank you very much for that. Any other
22 questions. Okay. Thank you very much.

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1 CHAIRMAN RIDDLE: Thanks, Tom.

2 Okay. John Wood and then Tom Hutcheson.

3 MR. WOOD: Thank you. I appreciate the
4 opportunity to provide my comments to you this
5 morning. My name is John Wood. I'm Director of
6 Product Registration and Compliance for EcoLab
7 Incorporated. We're based in St. Paul, Minnesota.

8 EcoLab is a leading manufacturer of
9 industrial and institutional sanitizing cleaning and
10 laundry products. In that portfolio EcoLab markets
11 antimicrobially interventions which are secondary
12 direct food additives that are cleared through 21 CFR
13 173 to reduce food borne illness, pathogen
14 contamination on the surfaces of fruits and
15 vegetables, poultry, red meat and seafood.

16 As I said, these additives are classified
17 as secondary directs and they meet FDA's
18 classification as processing aid based on the Agency's
19 definition at 21 CFR 10.100(a)(3).

20 In the letter or the copy of my comments
21 you will see that I have provided the clearances for
22 peroxy acids for the treatment of red meat and

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1 poultry, the use of acidified sodium chloride
2 solutions for the treatment of red meat, poultry,
3 fruits and vegetables and seafood and peracetic acid
4 solution as an intervention for our fruits and
5 vegetables.

6 EcoLab supports the NOSB and the NOP to
7 approve the NOSB Handling Committee recommendations
8 Sunset Review List 205.605(a) and (b).

9 Furthermore, I would like to address this
10 morning some of the other presenters have already
11 touched on this, the confusion that seems to be out
12 there as to secondary direct additives in 21 CFR by
13 some certifiers may think that those do not meet FDA's
14 definition of a food contact substance. As you know,
15 NOP defines still present those ingredients regulated
16 by the FDA as food additives permitted for direct
17 application to food for human consumption under 21 CFR
18 173, except that substances that FDA has classed as
19 food contact substances.

20 In 1997 through FDAMA, which amended the
21 federal Food Drug and Cosmetic Act, FDA provided a
22 notification process for food contact substances. And

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1 a food contact substance as any substance is defined
2 as any substance that's intended for use as a
3 component of materials used in manufacturing,
4 packaging, transporting or holding of food if such use
5 is not intended to have a technical effect in the
6 food.

7 This notification was intended to replace
8 the lengthy food additive petition process. And this
9 notification process was preserved for those additives
10 where the agency could make a safety determination in
11 120 days or less. So FDA has a website, FSIS has a
12 website now and you find on that website a list of
13 approved food contact notifications. But the food
14 contact notification process was not really fully
15 implemented until the year 2000. So consequently, and
16 as you know, we have materials, there are materials in
17 21 CFR 173 that meet the definition of a food contact
18 substance. And this has led to some confusion that if
19 a material is not on that list, then it's not a food
20 contact substance.

21 I've provided to you as documentation some
22 of the letters regarding peroxy acids and acidified

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1 sodium chloride solutions, letters from USDA or FSIS
2 stating that these are processing aids that do not
3 have an ongoing intended technical effect and
4 therefore, processor incidental adding labeling is not
5 required.

6 So in closing, I think it's critical from
7 what I've seen, and I've been dealing with this on a
8 limited data. I just drawn into it recently. That
9 there is confusion out there as to what is a food
10 contact substance. And your help in putting forth a
11 legal clarification to that I think would be extremely
12 helpful to both the manufactures, the certifiers and
13 everyone.

14 Thank you. Any questions?

15 CHAIRMAN RIDDLE: Thank you, Mr. Wood.

16 I do have one comment. That food contact
17 substance list, I believe, is over 540 items now at
18 this point and it continues to grow pretty rapidly.
19 And the statement you quoted from the NOP website just
20 to make it clear that in the Harvey case, the USDA in
21 their filing said that that was a draft for discussion
22 purposes.

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1 MR. WOOD: Okay.

2 CHAIRMAN RIDDLE: So as the previous
3 speaker pointed out, this is a big issue. The law has
4 been changed. The program working with the Board and
5 the public really does have to sort this out. So just
6 a further background.

7 MR. WOOD: Okay. Thank you.

8 CHAIRMAN RIDDLE: Thanks.

9 Okay. We have Tom Hutcheson then Jim
10 Pierce.

11 MR. HUTCHESON: Hi. Tom Hutcheson with the
12 Organic Trade Association.

13 CHAIRMAN RIDDLE: Speak up, Tom.

14 MR. HUTCHESON: Sorry. I'm recovering
15 from the Greenfield Bird flu.

16 I would like to add OTA's great thanks to
17 the retiring Board members. Goldie and Dave, whose
18 not here and Jim, Rose, George; all of you have been
19 real work horses. And echoing what Jim said earlier,
20 got an incredible amount done since the final rule was
21 published. This is -- you've probably seen the span
22 of the most change that any NOSB will be see and the

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1 contributions you've made have laid the foundation for
2 pretty much all future work that the Board is going to
3 do, the Board manual in particular is an extremely
4 useful document for everyone.

5 Also wishing to welcome Mark Bradley into
6 the job he loves so well. And we love having you
7 there, Mark. It's just -- I know especially the
8 certifiers and people working in quality verification
9 systems will appreciate your expertise in that area.

10 I'd also like to endorse the
11 recommendations in general. Obviously, a great deal
12 of work went into them. A lot of thought, careful
13 thought into what needed more review.

14 The one thing that I would suggest is that
15 when you do defer on material, the more information
16 about why it was deferred, the better people will be
17 able to give comments and speed the process along so
18 that your statement of work to the TAP reviewers can
19 include all of the necessary parameters so that it
20 doesn't get further hung up. I realize there
21 was some of which TAP reviews just weren't done, which
22 is a very general reason. But if there were specific

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1 reasons that came up as to why it was deferred, it
2 would be helpful to have all of those. And some of
3 them were. But the more information in that part of
4 it, the better for future reference. So I guess
5 people in general won't be around for the next Sunset
6 Review, but you can only hope so, right?

7 You'll be making comments and you'll want
8 the NOSB to include as much information as possible.

9 Pretty much just a heads up on a looming
10 issue, 606. Everyone has managed to avoid a number of
11 potential train wrecks over the last two years. I
12 think we need to think about 606 not as major a train
13 wreck as some of the past ones have threatened, but it
14 is a new idea for a lot of people. Of course, the
15 proposed rule said naturals are allowed unless they're
16 prohibited and the preamble to the final rule said
17 pretty much the same thing in those words.

18 Now we have a new situation. The process
19 has, reading now, "Until now it's been the
20 responsibility of certifiers and OTA expects that any
21 new rule will mandate that manufacturers demonstrate
22 not only that they're certifiers, but also to USDA

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1 through the NOSB that a product is not commercially
2 available in an organic form. OTA notes that this
3 strengthens rather than weakens the existing rule."
4 That's supposed to be the good news.

5 The bad news is that OTA anticipates that
6 upward of 1500 ingredients could be petitioned unless
7 some degree of categorization of ingredients is
8 allowed, in which case perhaps 50 to 100 would be
9 petitioned, which is an order of magnitude pretty
10 much.

11 The longer list includes various steam
12 distilled essential oils, Co₂ extracts, alcoholic
13 extracted botanicals and derivatives of all three as
14 well as spices. OTA would like to support the
15 broadest categories possible that will be legally
16 acceptable as identifying ingredients in order to mean
17 something close to the range of organic product
18 options, and therefore demand for raw agricultural
19 product that the trade currently has.

20 Just that and a quick note that any work
21 on smoothing a reclassification of any items from
22 605(b) to 605(a) if there are now natural alternatives

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1 available would be helpful particularly
2 recommendations specifically in support of the
3 simultaneous petition to remove and approve, and any
4 issues that may arise from that.

5 CHAIRMAN RIDDLE: Thanks, Tom.

6 George?

7 MEMBER SIEMON: Just so I understand your
8 blocking together, there would be approval of them as
9 a group?

10 MR. HUTCHESON: No.

11 MEMBER SIEMON: There's 1500 individual
12 ingredients and if you break them down to 50 or 100
13 groups. I didn't understand.

14 MR. HUTCHESON: No, no. It's 50 or 100
15 items if you included, say, flavors that were made by
16 a particular process that the only difference is the
17 natural flavor rather than that you would say natural
18 flavors using this process that include this
19 particular one item in each of these things that's
20 different. That is, if something -- if one flavor was
21 the same as another flavor except for one was
22 raspberry and one was blueberry, then you could say

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1 raspberry and blueberry and whatever that were made by
2 this process. And that might help lessen that sort of
3 thing. Because a lot of these are, if not standard
4 formulations, at least similar. And I don't know the
5 technical details of that, but it's one way to start
6 thinking about some of what's actually out there.

7 We have a task force going on it. These
8 are some of the issues we've begun to identify. This
9 is just a heads up that this may be bigger than
10 anybody expected, that's all.

11 CHAIRMAN RIDDLE: Yes. Thanks for that.
12 And once again, we have to keep moving. But Andrea?

13 MEMBER CAROE: Well, I just wanted to ask
14 you a quick question about categories of things
15 between 606 like spices. My concern, and I'm talking
16 of other members of the Board, is that by doing that
17 spices that could become available won't. There's not
18 going to be incentive to get those products on the
19 market because they're lumped into a broader category.

20 So if you put spices on the list because organic
21 saffron is not available or organic cumin and maybe a
22 couple of other things, but organic pepper is widely

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1 available, now it's on the list and processors won't
2 have to purchase the maybe more expensive organic
3 black pepper instead of conventional.

4 The worry is by listing these things that
5 we'll lose the incentive for producers to start making
6 these organic products, these minor ingredients
7 available. And has your task force worked on that at
8 all and thought about that issue?

9 MR. HUTCHESON: Well, the common
10 understanding before materials had to be listed
11 individually on 606 was that when they become
12 commercially available, the manufacturers had to use
13 them. And I think that's a separate question of how
14 commercial availability is treated. And, again, the
15 Board's work on this is great, let's hope it moves
16 forward expeditiously.

17 So the situation really isn't any worse
18 than it was to begin with when all naturals were
19 allowed unless there was an organic alternative
20 available. Obviously, keeping a list of what
21 certifiers are letting be used as not available in an
22 organic form would be useful. So that you know a

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1 posting, as I know NOSB is considering, for 30 days to
2 have anyone say wait a minute you shouldn't accept
3 that because it is commercially available or here's
4 what is commercially available, are they really asking
5 for something different from that.

6 So it's certainly not any worse than it
7 was. And the degree of categorization is what we're
8 asking some consideration of. And, of course, you're
9 free to exempt anything from that within those that if
10 you think, oh you know, forget it. Pepper is never
11 going to be not available as organic, let's exempt
12 that from this category, that's another route you
13 could go as well.

14 CHAIRMAN RIDDLE: Thanks. Thanks, Tom, and
15 I do just want to give a reminder that we won't be
16 acting on commercial availability at this meeting.
17 It's good information, but we will be acting on the
18 Sunset recommendations. So as I ask commenters to
19 focus on those as much as possible.

20 Thanks, Tom.

21 MR. HUTCHESON: Just a heads up.

22 CHAIRMAN RIDDLE: Yes. That's no problem.

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1 Always appreciate it.

2 Jim Pierce. I know Marty Mesh is not here.

3 He was next. Franz Wielemaker.

4 MR. PIERCE: Good morning, Mr. Chairman.

5 NOSB, NOP staff, ladies and gentlemen of this rather

6 snub gallery, I'm Jim Pierce self-appointed

7 certifications czar at Organic Valley Cooperative.

8 Since I missed addressing you all last

9 August, I thought it's appropriate to refresh you with

10 the company disclaimer. The cooperative that I work

11 for includes over 700 organic family farms in 17

12 states. The cooperative produces refrigerated dairy

13 products, eggs, juice, produce and meats, every bit of

14 which is certified organic.

15 Among the goals of the cooperative is to

16 provide certified organic products, support family

17 farms, promote humane treatment of farm animals,

18 sustainable agricultural production and environmental

19 protection.

20 Mark, I love this job.

21 The role of the NOSB as the USDA appointed

22 Advisory Committee has been debated since its

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1 inception. But beyond reproach is the premise that
2 the NOSB deals with materials and the NOSB works in
3 compliment with the NOP. As simple as that rolls off
4 the tongue, it's a task that has been more complex
5 than string theory.

6 Ladies and gentlemen, pat yourselves on
7 the back. This is good work well done. You are the
8 Board that first plowed through the quagmire of the
9 Sunset clause, and you're about to greet the new dawn
10 not only in tact, but as wiser seasoned veterans
11 having blazed trail for further Board members to
12 follow.

13 Good job particularly of shifting through
14 a multitude of comments, many of which missed the mark
15 considerable.

16 Good job remaining focused, not dealing
17 with annotations, recategorizations and other
18 temptations to meddle beyond your purview.

19 Good job working with the NOP on
20 presentation and format. Good job NOP for assisting.
21 Your guidance in accurately setting the course is
22 obvious and appreciated.

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1 Now, as I mentioned, I missed the August
2 meeting so I've only addressed you five freshmen, soon
3 to be sophomore members once. But veteran members
4 know they don't get off without some criticism, always
5 constructive and well meaning, of course. So pay
6 attention and this won't hurt too bad, as mom used to
7 say.

8 The only actual criticism I have is that a
9 score card summary of all of this would be very
10 helpful. Go back to the list and say which ones are
11 going to be recategorized, which ones are going to be
12 deferred. There's a lot of paper and I think we're
13 going to find ourselves shuffling back and forth
14 through a lot of paper this afternoon.

15 Other than that I have more questions than
16 criticism, actually, since you really seem to be on
17 the right track. And I hope the answers will become
18 obvious as this meeting proceeds. Among what I hope
19 to be enlightened on, how much of the precious time
20 and resources available to materials review will be
21 used? Hopefully, there will still be room for new
22 petitions, not to mention the development of

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1 commercial availability criteria and subsequent
2 reviews.

3 What exactly are you expecting when you
4 refer to "further technical information?" Hopefully,
5 it will be specific, clear and cheap, an abstract
6 concept in Washington, D.C., I realize.

7 Will you be leaving too much work for the
8 next Board? God knows their plat will be full. And I
9 guess I just hope to come away from this meeting with
10 the assurance that farmers and processors will not
11 find themselves in limbo during the review of these
12 previously approved materials, which now find
13 themselves on the bubble. This is quite a list, after
14 all. The list of deferred livestock materials grew
15 from two to four. The processing list also grew from
16 two to four. And the crop list grew to 15 -- 15,
17 seven of which were added not based on comments. I'm
18 certainly going to do my very best to keep my eyes
19 from glazing over while you educate me on this.

20 I gather from the recommendations that
21 some of these materials were not technically listed
22 correctly, in which case they say onward organic

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1 soldiers. By all means, list them all and then fix
2 them all.

3 Now Jim Riddle yesterday gave me a caveat
4 that I said I could use, so I thought I'd better use
5 it. Address annotations for technical corrections
6 only, not for expanding or restricting use. Is that
7 close? Thank you.

8 In closing, let me close by coaching you
9 to be conscious of the lessons learned from the Harvey
10 lawsuit. Be careful that your decisions that you make
11 don't cut the hands off of well meaning organic
12 farmers and producers. Minimize the disruption at the
13 same time as you ratchet up the old organic bar.
14 Remember that as Sunset trailblazers you are repairing
15 past oversights and setting precedents for future
16 Board members. Do it right, do it just and do it so
17 you can be proud of what you've done.

18 Thank you.

19 CHAIRMAN RIDDLE: Thanks, Jim.

20 We have Franz and Brian Baker.

21 MR. WIELEMAKER: Well, it's very hard to
22 follow this very versed speaker. I'll make it brief.

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1 I'm a new kid on the block in these kinds of meetings.
2 I represent the Dole Fresh Food Company in Central
3 America and South America. My name is Franz
4 Wielemaker. And I'm charge of the organic program
5 with that company. And I work with a lot of organic
6 banana and pineapple growers in Central and South
7 America over the last ten years.

8 What I would like to address is the use of
9 ethylene in 605(b)(10). Ethylene allowed for post-
10 harvesting ripening of tropical fruit and the
11 degreening of citrus. And later on I'll talk about
12 601(k) where ethylene is mentioned for regulation of
13 pineapple flowering.

14 As it is in the review committee, ethylene
15 was deferred because further technical information had
16 to be obtained or needs to be obtained. This is
17 rather worrisome for a lot of the organic banana
18 growers in Central and South America because it will
19 give a lot of insecurity of what is going to happen in
20 the near future. So I would like to see why or I
21 wanted to find out why this was deferred. Because if
22 it's about a technical information that is missing, it

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1 might have been in some kind of comment that was made
2 to NOP. And I went through the whole list of all the
3 comments that were made. I only found one addressing
4 ethylene. And in that comment they say that ethylene
5 increases yields and decreases labor.

6 In the TAP review, for which exists, it is
7 also said by reviewer three that ethylene would
8 increase yield synthetically increase yield. I've
9 seen in my 27 years of experience in banana research,
10 I fail to see why or how ethylene applied post-harvest
11 can increase yield. So I need a clarification for
12 this.

13 And also how can it reduce labor if by all
14 means are now able to produce an organic banana crop?

15 So if we can deferral changed and get
16 ethylene for banana ripening approved this week, then
17 I would also like to mention that I think for
18 pineapple flowering in 601(k), I would like to add the
19 flowering of pineapple in that section. Because just
20 as with citrus, we do need to degreen pineapples for
21 the market.

22 There exists TAP reviews for both of these

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1 comments for both uses of ethylene, like mentioned.
2 These are rather recent. They're quite complete. And
3 the EPA here rules that an environmental phase studies
4 for ethylene are not required. That's a statement by
5 the EPA.

6 And also ethylene is exempt from tolerance
7 requirements because ethylene poses no dietary risk.

8 So it's beyond my comprehension at this
9 stage why ethylene should be deferred.

10 I thank you all for your attention. And
11 you're all doing a great job, and I hope I brought my
12 point across. I would like to hear some comments.

13 CHAIRMAN RIDDLE: Thanks, Franz.

14 Kevin?

15 MEMBER O'RELL: Yes. And we'll go into a
16 little more detail in the presentation of the Handling
17 Committee report. But just to kind of set the
18 framework of under the gun under pressure to get as
19 much on the plate as we could, as we said the low
20 hanging fruit, which I realize you're using it for
21 fruit but I apologize. That wasn't one of the low
22 hanging fruit.

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1 We chose to defer it because when we read
2 the initial TAP review on ethylene, there were some
3 questions there that we felt needed further review.
4 And given the time constraints, we wanted to get
5 through with those materials that seemed not to have a
6 contentious position. So it's under review, we'll
7 certainly have questions for it. And we'll make those
8 questions known to the public as we go through the
9 process.

10 MR. WIELEMAKER: The thing is by deferring
11 it you're creating a lot of uncertainty under the
12 growers in Central and South America. So I would say
13 if you need clarifications on the TAP review, we can
14 do that in the meantime. But the only negative comment
15 that I can find in any of the two TAP reviews is by
16 one reviewer. His comments never get reviewed. That's
17 the end of the TAP review. So --

18 CHAIRMAN RIDDLE: Rose?

19 MEMBER KOENIG: I just want to make you
20 aware of the kind of philosophy, I guess, that we took
21 and I proposed. We had a lot of comments. We had a
22 lot of materials that we had to review in a very short

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1 period of time between the closing of the comments and
2 when we would have to post it on the web for prior to
3 review.

4 Deferral, you know I know it's not a
5 comforting feeling for things that people depend on.
6 But what people are assuming, and I think it's a wrong
7 assumption, is basically we could be -- it's further
8 technical information, some of which has already been
9 recanted by the Board, and as Art has stated, we have
10 some of that information back from the contractors.

11 You'll be involved in the process.
12 Anything that gets deferred will be voted upon
13 probably at the next meeting. And some of it may not
14 even be that much technical information. Maybe the
15 Committee was not at the point to make a decision. So
16 provide that information in your comment I think is
17 really helpful. And I understand there's uncertainty.
18 But don't --

19 MR. WIELEMAKER: Do you know any of the
20 technical issues that were at stake or that are
21 missing.

22 MEMBER KOENIG: Well, we'll discuss it and

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1 just listen to the comments. You certainly, just like
2 this -- from Livestock, you know after you hear the
3 Committee's discussion as we go through those things
4 and you still have maybe a comment or so that you want
5 to provide to the Board, I don't think there's
6 anything that's stopping people from coming tomorrow
7 on issues.

8 CHAIRMAN RIDDLE: Only me.

9 MEMBER KOENIG: Yes. And, hopefully, if
10 we have time periods, certainly we want the Livestock
11 issue to be discussed tomorrow. But certainly if there
12 opportunity, you can always submit comments in
13 writing.

14 MR. WIELEMAKER: Okay. And then another
15 issue was the addition of degreening for pineapples in
16 601.

17 CHAIRMAN RIDDLE: And it does say tropical
18 fruits already.

19 MR. WIELEMAKER: Yes. But it's in 605,
20 which is after harvest. And in pineapples it's done--

21 CHAIRMAN RIDDLE: In the field?

22 MR. WIELEMAKER: In the field.

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1 CHAIRMAN RIDDLE: Yes. Yes, and I don't
2 know if you caught earlier the discussion about not
3 adding or restricting uses in the Sunset process and
4 changing annotations. So really the most appropriate
5 action there would be for you to file a petition to
6 add that as an additional approved use on that
7 particular topic.

8 MR. WIELEMAKER: Which I did.

9 CHAIRMAN RIDDLE: The other I think the
10 Board is certainly hearing the need, even if we do
11 defer it for timely action, so that it's clear what
12 its regulatory status is. But it clearly is on the
13 list as approved through October 2007. No changes
14 there at all. That's the Sunset.

15 Thanks.

16 Brian Baker then Harriet Behar.

17 MR. BAKER: Thank you, Mr. Chair. Thank
18 you members of the National Organic Standards Board,
19 the National Organic Program.

20 I very much appreciate all the work that
21 you've been doing, and in particular applaud the class
22 of 2006. But above all I want to recognize one member.

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1 I'd like to respect and honor Rose Koenig for all the
2 hard work she's done on the Materials Committee.

3 (Applause).

4 MR. BAKER: Just a tremendous amount and
5 body of work that she's left. And I hope that future
6 NOSBs can build upon that and the
7 synthetic/nonsynthetic work that she to clarify and to
8 define those, not to mention her work on the Sunset
9 and to bring reason and organization to how the
10 National List is presented.

11 I'm Brian Baker, Organic Materials Review
12 Institute, Research Director.

13 MEMBER KOENIG: I thought you might have
14 been my husband or my brothers.

15 MR. BAKER: Well, they're lucky men, I
16 assure you.

17 The Organic Materials Institute sees
18 Sunset as an integral part of the materials review
19 process, just as integral as the petitioning, the TAP
20 review, the NOSB recommendations, the public comment.
21 We have to reevaluate these materials. Time does not
22 stand still. We have to go back to the original TAP

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1 reviews. Having been a reviewer in those early days,
2 I can tell you from personal experience there were
3 things I did not know then that I know now. There were
4 references that were not covered. There were TAP
5 reviews that were not even done. And new information
6 comes through every day. A lot's happened in the past
7 week or two, not to mention what's happened over the
8 past ten years. Science continues to make new
9 discoveries, there's no technology.

10 We have seen materials that were
11 classified as synthetic become available from organic
12 agricultural sources. This blurs the distinction in
13 categories between 605 and 606, to use the regulatory
14 jargon. So the purpose of the Sunset was to not put so
15 much of a burden on those who have taken the time to
16 develop the new technologies, to source the organic
17 alternatives, but to give some avenue for these things
18 to enter into the discussion without requiring a
19 repetition to remove.

20 So having said that, we also want there to
21 be a minimum amount of disruption and a good process
22 for those who have an economic stake on what's now on

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1 the list to have their voice heard and to take into
2 account what's happening there. There needs to be a
3 time line to remove those substances. There needs to
4 be adequate notice for those who formulate with
5 substances that are being removed to reformulate, or
6 address it some other way.

7 We're doing our share. We've emailed all
8 of our listed suppliers, we emailed all of our
9 subscribing certifiers. There was a lot of confusion
10 with that email about -- and we don't want to be
11 sending mixed messages. So we have to refer people to
12 the Department and to tell them to come to these
13 meetings. Obviously, there are people who hear the
14 word deferral and they think the word denial. They're
15 not the same. We're not advocating the removal of any
16 substance. We're not advocating the retention of any
17 substance. But we do want to see some consistency in
18 how they're addressed.

19 And in particular I would like to mention
20 one category of materials that appears in both the
21 Livestock and Processing section, nutrient vitamins
22 and minerals. These were not properly reviewed by the

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1 technical advisory panel. They were given a two year
2 period for reconsideration in 1995. And there remains
3 confusion in both cases. I sent comments about that.

4 And in order for expediency, I ask you to read those
5 or ask questions if you have any at this time, rather
6 than repeat what I wrote.

7 And briefly on commercial availability, it
8 is a Sunset issue, but also a broader issue.

9 Thank you.

10 CHAIRMAN RIDDLE: Brian, I just want to be
11 clear that on the nutrient and vitamin listings, you
12 are encouraging the Board to defer those at this time?

13 MR. BAKER: That is correct.

14 CHAIRMAN RIDDLE: Okay. Thanks.

15 MR. BAKER: Thank you.

16 CHAIRMAN RIDDLE: We'll have one more.
17 It's noon right now. We still have it looks like 11
18 people signed up to comment, which would be another
19 hour of comments after lunch.

20 But you're on now. And then first after
21 lunch is David Cox, then Zea Sonnabend.

22 So, Harriett?

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1 MS. BEHAR: My name is Harriett Behar.
2 And I live in Wisconsin. I'm a full time organic
3 inspector, educator and enthusiastic organic consumer.
4 My husband and I operate a certified green house,
5 grow organic vegetables and herbs, as well as having
6 an organic processing operation where we dry
7 vegetables and herbs.

8 I want to thank the NOSB, both the
9 outgoing members and the continuing members of this
10 Board for their diligence and persistence in some
11 cases in maintaining a transparent process in their
12 review of materials allowed in organic production. I
13 appreciate both the opportunity to comment and bring
14 my unique perspective and experience to this process,
15 as well as hearing the opinions and expertise of
16 others.

17 There are many stakeholders in the organic
18 community. And through open discussion and common
19 sense compromise, the NOSB has been able to maintain
20 organic integrity by using the OFPA criteria when
21 making decisions. Even though at times the end of the
22 discussion may never seem in sight, either based in

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1 insufficient information or lack of agreement among
2 the stakeholders, I encourage this Board to continue
3 with the sometimes argues process.

4 In review of the Sunset documents put
5 forth by the various NOSB Committees, I agree with
6 these recommendations overall. I would like to see
7 the Handling Committee review the annotation currently
8 in place for chlorine to be further clarified to allow
9 more than four parts per million of this synthetic to
10 be present when the solution is in contact with the
11 organic products. The current annotation is not clear,
12 and in my organic experience this is inconsistently
13 regulated.

14 My main comment here is also concerning
15 annotations. While I understand that these statements
16 in the National List are in place to limit these
17 materials to a specific use, I see misunderstanding by
18 both farmers and processors of the annotations when
19 out there in the field. I have seen lidocaine and
20 procaine be used in cattle without the complete
21 withhold time of seven days for dairy and 90 days for
22 slaughter. I have also seen a lot of confusion

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1 concerning the annotation present on sodium nitrate
2 with some fertilizer companies selling this product
3 bundled into a fertilizer blend as an approved
4 material. Both the farmer and the certification
5 agency have difficulty in determining how much of the
6 nitrogen in the fertilizer blend is obtained from this
7 restricted product.

8 While I do not have a specific
9 recommendation -- sorry Bea -- to change these
10 annotations, I caution this Board to be very careful
11 when crafting annotations to prevent confusion and
12 abuse.

13 There's a variety of materials that were
14 deferred by the various committees. And I welcome the
15 opportunity to comment on these materials such as
16 oxytocin, potassium chloride, streptomycin and
17 tetracycline when these go through the transparent
18 process of TAP reviews and NOSB debate.

19 Lastly, due to the recent changes by
20 Congress of the OFPA, I would request the most recent
21 docket put out by the NOP with the synthetic materials
22 in the handling category listed only in the made with

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1 organic category be rewritten and reopened for public
2 comment based on the OFPA changes.

3 In light of this change to the OFPA, I
4 strongly urge the NOP to work even more closely with
5 the NOSB and public when writing the rules concerning
6 synthetics used in and on organic products, as well as
7 the decision making process when determining
8 noncommercial availability. The NOSB was put in place
9 to bring a variety opinions and expertise to the table
10 when making these important decisions. An organic
11 label has strong integrity and consumer trust based on
12 the transparent and inclusive NOSB process. I urge the
13 NOSB and the public to be vigilant in the production
14 of our organic label as we move forward with the
15 rulemaking based on this OFPA change.

16 Organic production is not a black and
17 white process. There are many gray areas that need to
18 be discussed in the light of day with a decision
19 making process that recognizes organic production as a
20 holistic system and not a linear one using the
21 experience, wisdom and common sense of all
22 stakeholders. Organic consumers, farms and processors

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1 deserve no less.

2 And with the methionine, just one other
3 comment. Two meetings ago I suggested that the NOP or
4 the NOSB put some money towards a task force to
5 actually try to find the alternative to methionine. We
6 now have three more years. I'd rather not just see the
7 product keep moving forward. I would like to see an
8 actual process to try to find the alterative.

9 Thank you.

10 CHAIRMAN RIDDLE: Thank you, Harriett.

11 Gerald?

12 MEMBER DAVIS: Harriett, in reference to a
13 comment you made about sodium nitrate, there really is
14 a simple way to, as a certifier, when it is included
15 in a blend of blended fertilizer to document that and
16 keep track of it in the certification, audit trail and
17 so trail. And if you're willing to speak with me
18 after, a break or something, I could share with you.

19 MS. BEHAR: Yes. As an inspector I know
20 that I'm just saying this. It's difficult. The farmers
21 are using it, it's being presented as an approved
22 substance without then the farmer truly understanding

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1 that they have to have this 20 percent of the nitrogen
2 needs of the plant to be proved. And when it's hidden
3 in the fertilizer, it just makes a lot of back and
4 forth with the certifier. There's just a lot of
5 extra paperwork and confusion out there.

6 MEMBER DAVIS: Well, we can talk about it
7 afterwards.

8 MS. BEHAR: Yes, I know people can
9 track it. But I'm saying practically it's not being
10 done as easily as it could be.

11 CHAIRMAN RIDDLE: Hugh?

12 MEMBER KARREMAN: Harriett, just a
13 question on the lidocaine. So what are you saying
14 that the annotation needs to be more published? Or
15 what are you seeing out there, first of all, because
16 I'm out there in the trenches, but you're in
17 Wisconsin. And what do you think --

18 MS. BEHAR: Well, I'm in the hills and
19 you're in the trenches.

20 MEMBER KARREMAN: And what do you think it
21 should be? I mean, you know, to make it clear.

22 MS. BEHAR: Like I said, I think that

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1 there's a problem that a lot of times the annotations
2 are not taken -- people just see the material. And for
3 some reason they don't read the rest of that sentence.

4 I just see a lot of that being a problem. So even
5 though I bring up the annotation when I'm doing the
6 inspection, I think we have to be careful about
7 annotations because they just don't seem to be taken
8 seriously as the product.

9 I see veterinarians being told that
10 lidocaine and procaine are allowed, end of sentence.
11 And so they come and they give that to the animal and
12 the farmer doesn't say, oh oh, wait a minute, oh I got
13 to pay attention to the rest. They just see it as an
14 approved material.

15 CHAIRMAN RIDDLE: All right. Thanks. And
16 we'll break for lunch. Try to be back at 1:00 is what
17 the agenda says we'll start. So please be here. We'll
18 continue public comment at that time.

19 (Whereupon, the meeting was adjourned at
20 12:07 p.m., to reconvene this same day at 1:24 p.m.)
21
22

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1 A-F-T-E-R-N-O-O-N S-E-S-S-I-O-N

2 1:24 P.M.

3 CHAIRMAN RIDDLE: Let's reconvene. We
4 have most of the Board here. We still have people
5 waiting to comment.

6 Mark Castel, you just dropped some papers.

7 David Cox or is it Gary, did you want to
8 defer for now and come back later?

9 MR. COX: That's fine if I can get back on
10 the agenda.

11 CHAIRMAN RIDDLE: You'll still be on the
12 list, but if you prefer to pass for now and that way
13 Lynn has a plane to catch, and he had kind of fallen
14 off the email list, so move Lynn Clarkson up next and
15 then we'll fit you back in. Thanks. But then Zea
16 will be next after Lynn.

17 MR. CLARKSON: Good afternoon. My name is
18 Lynn Clarkson. I'm managing director of Clarkson Soy
19 Products. We make, we process 100 percent soy
20 lecithin. I thought it might be helpful to you to
21 have a processor on the public record, providing you
22 some information about availability, functionality,

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1 those issues and expose to any questions you might
2 have.

3 In your packets you will have a one and a
4 half page presentation on availability. You've got a
5 one pager that's more or less scientific data on the
6 definition of what lecithin is. You have a production
7 spec sheet on what we're offering. And you have one
8 page of commercial propaganda or what, what we're
9 using. You can read better than I can speak, so I
10 will distill that page and a half.

11 We have been making organic lecithin for
12 about four years. The first two years, we were
13 writing the learning curve and falling off and then
14 climbing back on if we learned more on how to do it.
15 There's some trade secrets involved. We've been
16 making world-class lecithin since January of 2004.

17 That lecithin is currently used in baby
18 food in Korea, baby food in the United States,
19 chocolate, cookies, power bars, tofu and some
20 beverages. It is a test of functionality that we have
21 passed and done well.

22 Further tests of functionality, we will be

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1 happy to cooperate with any tests required by any one
2 and we've tried to find a lecithin guru, a retired
3 gentleman who writes the book on lecithin or if he
4 doesn't write it, he is the editor of the book on
5 lecithin. We would like for him to propose whatever
6 he thinks is reasonable and submit ourselves to that.

7 You need to know that lecithin is not a
8 mono product. One of the best conventional providers
9 of lecithin has 165 standardized versions. There is
10 no way that we can commercially make available right
11 now with the size of the organic market, 165
12 standardized versions, so we have selected roughly
13 three or four that have the most usage and those are
14 available.

15 I want you to know that we are quite
16 capable of making an organic bleached lecithin. We
17 are capable of making a granulated lecithin. But at
18 this time, we don't see enough demand to put that out
19 commercially.

20 Commercial availability, we have met all
21 offers or all requests for supply. We have surplus
22 capacity. We have in place a plan within six months

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1 to double the supply and continue to increase it
2 beyond that if there's enough demand in the
3 marketplace. We simply don't know what's there right
4 now.

5 I will tell you about one processor, one
6 certifier that has a policy that we like. The
7 certifier has decided we have carried the burden of
8 persuasion meaning that we have met their standards
9 for commercial availability and functionality that has
10 transferred the burden to a user. If there's a user
11 certifying a product that carries the lecithin under
12 that seal, under that certifier, they have to show
13 that the organic lecithin would not work for them.

14 We have no interest in pushing people to
15 use something that doesn't work for them. It is a
16 client relationship. We wish happy clients. So we
17 like that procedure. We think that meets all of our
18 needs.

19 Having said that, before I run away, I
20 want to change hats and tell you that. I have a
21 personal comment to make as one of the directors of
22 the Organic Trade Association. I'm not speaking for

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1 the trade association. I'm not speaking for the other
2 directors. The Harvey and the legislative action that
3 was taken has come up before you. I know that many of
4 you have been keenly involved in it.

5 What I saw in the Harvey case as a
6 director, with responsibility for guarding and
7 encouraging the trade in organic materials, organic
8 foods, was in my mind a serious threat to the
9 foundation of the industry.

10 The options of dealing with that were
11 extremely limited and had some time lines. As a
12 handler and a processor, I am typically working 18 to
13 24 months in the future. Other processors making food
14 products are working sometimes 24 to 36 months in the
15 future. I felt it was absolutely critical to address
16 that challenge to the process sector. As I said, we
17 were limited on our options to do so.

18 I supported the political legislative
19 strategy. I wanted it to do the least disruption
20 possible. I wanted to address the loss of the minor
21 synthetic ingredients that had been vetted through
22 conversations or a significant period of time.

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1 I have absolutely no disrespect and lots
2 of respect for the challenges to the OTA during this
3 procedure. I am happy with the result. I think you
4 will see that the OTA is once again open for
5 communication. I think it wishes to embrace the
6 community and develop consensus on how we proceed and
7 the protocols we use in the future to change things.

8 Thank you very much.

9 CHAIRMAN RIDDLE: Kevin?

10 MEMBER O'RELL: Lynn, you had mentioned
11 that some of the convention suppliers of lecithin have
12 165 different varieties of lecithin in the
13 marketplace. And you concentrated on three or four
14 versions.

15 Do you see any major product categories or
16 applications that would fall through the cracks and
17 not be able to use your product because of the road
18 that you took to have three or four? I realize 165 is
19 a lot of products. But is there the danger of
20 somebody with a legitimate concern about functionality
21 for their product, you not being able to respond?

22 MR. CLARKSON: I would have to say I step

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1 right into my area of ignorance. There may be some
2 needs there that I'm not aware of. I cannot say that
3 we can meet everybody's needs. I can say we can meet
4 most of their needs out in the marketplace and we
5 would be happy to submit ourselves to testing for
6 anybody.

7 MEMBER O'RELL: In terms of form, you had
8 indicated you have a granule form that is available
9 now or could be available?

10 MR. CLARKSON: We have the ability to make
11 it. We have the ability to provide it and we haven't
12 seen enough demand to justify creating the supply
13 line.

14 MEMBER O'RELL: So if somebody was using a
15 dry version, but not powdered and not driving the
16 demand feasible for your production, you wouldn't be
17 able to meet that form?

18 MR. CLARKSON: We would welcome a
19 discussion with anyone and based on their needs we
20 could possibly do it. It would depend on the supply,
21 how often they needed it replenished, issues like
22 that.

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1 MEMBER O'RELL: Thank you.

2 CHAIRMAN RIDDLE: Rose?

3 MEMBER KOENIG: It has been a while. I
4 actually started when the paneling committee was
5 looking at the substance. I did a little bit of
6 research. One of the reasons why we're calling for
7 TAP is that it seemed like it was much more
8 complicated than what first seemed a relatively simple
9 substance.

10 It seems to me from the information that I
11 gleaned from websites is that -- I don't know, but
12 there's a little thing that was sitting on my shoulder
13 that was telling me those 165 types perhaps are not
14 all natural, that there could be other substances are
15 added to change the properties of that and that's what
16 I was concerned with because right now the way it's
17 listed, only the bleached form is considered
18 synthetic.

19 So I was hoping with the technical
20 information that we will obtain from our contractor to
21 actually get a better understanding, but can you glean
22 any information of these 165 forms, are they all just

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1 -- after the extraction of it, if there were things
2 that were added to the formulation that would change
3 the chemisitry of the lecithin is perhaps is not a
4 nonsynthetic.

5 I think we may be opening up a larger --

6 MR. CLARKSON: Yes, you may be and you
7 will probably test the limits of my knowledge about
8 that. I think you will find in some powdered versions
9 there may be some real issues. We have learned how to
10 make a powdered version that meets all the organic
11 standards. What kind of demand is there, I don't know
12 because supply and demand have to have some sort of
13 correlation here and that's a balancing act for us,
14 but technically we can do that even in the powdered
15 version. But I'm not cognizant of all the
16 formulations and there are a myriad of formulations
17 out there.

18 MEMBER SIEMON: Being specific about this
19 lecithin bleach, what is your position on what we
20 should do with that, the bleached lecithin? Is to
21 defer it now and that's in your opinion of that? How
22 does the supply and demand pushing for it apply? I

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1 want the demand to pool the price through the
2 marketplace and you seem to be agreeable to do that.

3 MR. CLARKSON: If we had demand there, the
4 supply would be right behind it. We are capable of it
5 today. There may be formulations that we can't meet.

6 I'm quite pleased, leaving you with certifiers to
7 come to us and say is it available and then work with
8 us the way I mentioned without naming names of the
9 certifier has been.

10 I think we could meet that market
11 tomorrow, George, but I don't know the size, so I
12 don't know whether it would fit.

13 MEMBER SIEMON: But the certifier
14 methodology has really not been working, has it,
15 because some certifiers have not been?

16 MR. CLARKSON: It hasn't been working, but
17 one of the salutary issues coming from the Harvey is
18 it's sensitized people to a lot of things. It's
19 working much better.

20 (Laughter.)

21 MEMBER O'RELL: Lynn, just so you
22 understand because I know you flinched a couple of

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1 times about certifiers being able to follow anything.

2 If there were criteria given to certifiers to follow
3 for items that were on 606, how would you feel about
4 lecithin still remaining on 606 and having criteria
5 come out for certifiers to follow to see if it meets
6 going through the test of functionality? Because I
7 think if I hear you right you're saying that if it
8 comes off 606, there may be some specific applications
9 that you might not be able to cover.

10 MR. CLARKSON: That's correct. And I
11 don't have a right answer for this. I think I could
12 live with either of the answers you proposed. I would
13 like to see a general acknowledgement that is
14 generally available, but I can tell you there are
15 going to be some instances in which conventional may
16 be the only thing that works.

17 CHAIRMAN RIDDLE: I just add that even
18 when it's on 606, well, when it's on 606 that's when
19 the certifier does that commercial availability on a
20 case-by-case basis for every operator they certify.
21 So that still applies.

22 Thanks. Go ahead.

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1 MR. CLARKSON: I just want to underline
2 that any testing that anybody wants done, we are quite
3 happy to participate in.

4 CHAIRMAN RIDDLE: Okay, we have Zea
5 Sonnabend, then David Cox.

6 MS. SONNABEND: Hi. I'm Zea Sonnabend,
7 representing California Certified Organic Farmers,
8 Inc., also known sometimes as the Materials Girl,
9 because I think I can safely say I've been around
10 since the beginning of any materials review process
11 for organic. And I worked for the USDA as a
12 contractor, the original TAP contractor from 1994 to
13 1996 in preparing the original materials for the
14 National List. Was at all the NOSB meetings at that
15 time, so it's sort of dear to my interest to comment
16 on the sunset review, five years later.

17 I think the NOSB has really done a great
18 body of work and I definitely want to thank the
19 outgoing Members as many other people have because
20 you've come a really long way in the ability to do the
21 materials work that is so necessary to this Board and
22 it's such a relief to me to not have to do it all

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1 myself all the time and really keep close eyes on you
2 for what you're doing every second.

3 I agree with most of the comments
4 concerning the sunset and the renewals and deferrals,
5 but I have a few points I want to bring out and I also
6 want to say, in particular, that I really like the
7 proposal to restructure the National List from August.

8 I proposed something almost exactly the same myself
9 in response to the first rule for restructuring it by
10 categories.

11 A few other particular comments: hydrogen
12 peroxide as Emily brought up, there are two things on
13 there that are mistakes from the very first way the
14 National List was set up. Hydrogen peroxide is not
15 really a disease control, but it was put on as disease
16 control because of the way the EPA lists the label for
17 the products for it. It's really a crop production
18 aid. Now it is used as a sanitizer. That's a
19 separate use, but it's a crop production aid, very
20 similar to a carrier because it's used with sprayed-on
21 materials to help the plants absorb them better, an
22 oxygenenator material.

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1 So this is also similar to the way lignin
2 sulfinates are used. With micronutrients, the
3 hydrogen peroxide can be used with micronutrients with
4 kelp, with other things to help the plants take them
5 up better, so I would put it as crop production aid.

6 Also, hydrated lime was a mistake in the
7 original. Emily pointed out why, but it was reviewed
8 as part of Bordeaux mix. The annotation that was
9 approved by the NOSB and should have been in the list
10 was for use only with copper sulphate as part of
11 Bordeaux mix. That did not happen and there's been no
12 way to comment on that until now because they couldn't
13 change the National List the way it was.

14 So I do recommend that you figure out a
15 way to put it back on as copper and fix the old
16 mistake so that it's part of Bordeaux mix.

17 You may wish to additionally review its
18 uses as an insecticide because it can be used for
19 that.

20 Okay, I was a little curious about the
21 call for re-review for lignin sulfinates in
22 antibiotics. I would like to emphasize to you that

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1 lignin sulfinate has many, many different uses and
2 although it will just say chelating agent, that covers
3 like a really large range of different types of things
4 it can be used for.

5 Also, it's primarily a carrier in these
6 things, but I really strongly in your review, to look
7 at all the possible uses because we see this product
8 all the time and it could actually be listed as a
9 sulphur compound since sulphur is a key part of it, if
10 you do restructure the list.

11 Antibiotics, I had a question concerning
12 the statement in your document, the use of antibiotics
13 and organic production for therapeutic purposes, not
14 growth enhancements needs to be clarified. I have a
15 very large file at home on antibiotics and on lignin
16 sulfates and I'm happy to offer them. I have copies
17 of the original TAP reviews, many of which are lost
18 from the USDA office. I'm happy to offer them.

19 And then we want to make sure, as growers,
20 and I think I can safely say this for all growers.
21 Growers want no interruption in their ability to use
22 things and plenty of notice that something is going to

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1 change status. So I'm sure you all know this, but I
2 just can't -- it needs to be repeated time and time
3 again. Transparent review, then plenty of notice for
4 change.

5 And lastly, I have to throw in one thing
6 about the organic seed document. We liked the whole
7 thing up until the very last statement that certifiers
8 have to maintain and annually submit to NOP an up-to-
9 date list of specific nonorganic crop varieties
10 permitted for each agency. We keep this in growers'
11 files. We don't transcribe it into the computer.
12 This is hours and hours and hours of work that you're
13 asking certifiers to do extra for what purpose?

14 That's all, except spirulina, if anyone
15 wants to ask me.

16 MEMBER OSTIGUY: What about spirulina?

17 (Laughter.)

18 MS. SONNABEND: Thank you. I didn't
19 understand the point in the document concerning, it
20 said we want to renew sodium nitrate for spirulina,
21 but for use only until October 21, 2005. It's not
22 clear that -- because renew, it's not going to be

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1 finished by October 21, 2005, so I think you need to
2 add a sentence "if this is expiring" if that's your
3 plan.

4 And I'm passing out some documents from
5 CCF Grower and his affiliated companies for you to all
6 look at.

7 MEMBER KOENIG: I'll have a look at it,
8 but I think there is a label for -- I think it's
9 oxidated. It wasn't a different brand name, but I
10 think that's a hydrogen peroxide.

11 MS. SONNABEND: No, it is. And the EPA
12 requires a pesticide label.

13 MEMBER KOENIG: Right.

14 MS. SONNABEND: But that's not, in effect,
15 how it's used.

16 CHAIRMAN RIDDLE: Okay, thanks. David
17 Cox.

18 MR. COX: Thank you, Mr. Chairman. For
19 the record, David G. Cox. I'm a lawyer with the firm
20 of Lane, Alton and Horst in Columbus, Ohio, speaking
21 today on behalf of the Cornucopia Institute.

22 In a former life, I was a Senior Assistant

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1 Attorney General for the Ohio Attorney General's
2 Office. I prosecuted polluters for 14 years under the
3 Clean Water Act, RCRA, CERCLA, hazardous waste
4 violations. I did civil, criminal and administrative
5 enforcement. So I know a little bit about how
6 government works and how the administrative
7 regulations are promulgated, how those rules should be
8 enforced and implemented by USDA.

9 And in another former life I was actually
10 a certified organic farmer for a couple of years,
11 raising vegetables, selling them at farmer's markets,
12 grocery stores, restaurants and actually operated a
13 small SCA as well. So I know a little bit about the
14 National Organic Program. I'm familiar with the
15 regulations and the NFPA.

16 There's been a lot of talk today about
17 certifiers facing confusion over how to certify
18 somebody. There's been talk about consistency with
19 the rules and the regs. Conspicuously absent,
20 however, is any reference to enforcement of the
21 program.

22 I apologize to the Board right now. I

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1 have to take my comments out of order. I believe I
2 have permission from USDA to discuss the pasture rule
3 because I'm not going to be here tomorrow for the
4 meeting. But I believe I've cleared this with Mr.
5 Neal.

6 With respect to the pasture rule, it's my
7 understanding that there have been some complaints
8 filed with USDA pertaining to a particular dairy
9 operation out in the West that isn't complying with
10 the -- certainly the spirit or necessarily the letter
11 of the organic regulations as it pertains to pasture.

12 The cows are being confined. They don't have any
13 meaningful access to pasture. They don't freely graze
14 actually. The calves are in hutches out there. Some
15 of the feeder calves come from a facility that's not
16 even certified organic. There's synthetics in the
17 grain. It's my understanding that these complaints
18 lodged with USDA were basically closed without any
19 investigation being done.

20 So the concern I have is that USDA needs
21 to actually institute and implement an enforcement
22 program at the national level in order to make sure

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1 that this little green label that we have on all
2 these, for instance, milk containers, actually means
3 something.

4 With respect to complaints that are lodged
5 with USDA, USDA has an obligation to actually
6 investigate the complaint. They need to determine if
7 there's a violation of law being conducted, if there
8 will be a violation of the law, that will be
9 occurring, or if past violations have occurred.

10 If that's the case, USDA needs to take
11 appropriate enforcement action, issue administrative
12 findings and orders, issue warning letters to the
13 entity, actually issue cease and desist orders, notify
14 the public of these entities, noncompliance with the
15 laws, and engage in a process, not only with the
16 Board, but also members of the public, with respect to
17 the transparency of the results of the investigation.

18 Public records need to be made available and USDA
19 actually needs to cooperate with the Board in adopting
20 the recommendations by the Board.

21 Again, my whole purpose today is to speak
22 of some complaints that have been filed and USDA's

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1 action or inaction does have some consequences. Some
2 of these actions or inactions on the part of USDA can
3 actually be challenged either through the
4 Administrative Procedure Act or certain other USDA
5 statutes that apply.

6 There's been a lot of work by the organic
7 industry over the last now 15 years. It was a success
8 to even have Congress enact the NFPA in 1990. That
9 was -- to me, that's like on a par with Congress
10 enacting the Clean Air Act, Clean Water Act, RCRA and
11 all these environmental laws.

12 Now we've got some organic laws that are
13 in place and I think it's important to actually honor
14 the spirit and intent, not only of the statute, but
15 also the regulations that have been adopted so that
16 the little green label that's out there, that
17 consumers have placed their trust in, actually means
18 something and it's not a fictitious label.

19 Thank you.

20 CHAIRMAN RIDDLE: Thank you. We have
21 Carol King, then Steven Clark. I'm sorry, I didn't
22 give Carol a warning. Oh, you aren't signed up for

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1 today. We won't make you speak then.

2 (Laughter.)

3 I'll check the list, I think it's in the
4 back of the room. Check the list, make sure you're on
5 for tomorrow.

6 Steven Clark, Diane Goodman is offering
7 comments on behalf of and Gaye Timmons, but Gaye isn't
8 here.

9 MS. KING: That was the letter I passed
10 out.

11 CHAIRMAN RIDDLE: But it wasn't a proxy,
12 you could have kept going on.

13 (Laughter.)

14 Then David Hilts will be next after Diane
15 and Steven.

16 MS. GOODMAN: On behalf of myself and I'm
17 Diane Goodman for the record. I'm a consultant to the
18 organic industry and I want to express my deep
19 appreciation and gratitude to every one of you through
20 the last few months and especially to those of you who
21 are leaving, to Goldie and Dave and Jim and Rose and
22 George for the years that you have spent in this

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1 process because I have been with you the whole time
2 and know how much it's taken. So it's really with
3 deep appreciation for your work.

4 On behalf of Steven Clark, Steven is PHD
5 Director of Research and Industrial Development for
6 Florida Crystals Food Corporation and this is now
7 Steven speaking.

8 Good afternoon and thank you for the
9 opportunity to make this comment. Florida Crystals
10 recognizes the huge commitment of time and effort the
11 Board has made to make the process of the sunset
12 review efficient, comprehensive and accurate and we
13 appreciate your work.

14 We agree with the Committee
15 recommendations for determination of review for
16 substances currently on the National List, is posted
17 for comment, and urge you to vote your support, vote
18 to support your Committee recommendations.

19 We continue to rely on substances in
20 National List Sections 205.605(a) and (b),
21 particularly enzymes, ascorbic acid, calcium hydroxide
22 and calcium dioxide for the production of organic

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1 sugar and rice and trust that your vote will guarantee
2 those substances will remain viable after the sunset
3 of the list.

4 We would also like to urge you to make
5 your continued work with National Organic Program to
6 clarify the definitions of synthetic and nonsynthetic,
7 a priority in the work plans. We strongly recommend
8 that together the Board and the NOP staff seek both
9 scientific expertise and legal interpretation of OFPA
10 for the most objective, compelling and valid
11 definition that is scientifically substantiated.

12 I offer you, meaning Steven, offers you
13 his expertise and knowledge about this subject and
14 invite you to call on him to assist you in any way
15 that he can.

16 We also support the Board in its upcoming
17 role, advising NOP as rulemaking is developed to
18 follow recently legislative action to create an
19 expedited petition process for substances not
20 available commercially, excuse me, not commercially
21 available organically.

22 As a related note, we have many customers

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1 who use products that will now need to be included in
2 7 CFR 205.606, based on the Federal Register notice of
3 July 1st which limits those nonorganic agricultural
4 substances to the five currently listed. We suggest
5 the Board work collaboratively with your trade
6 association which has a task force already in place,
7 working on questions, considerations and criteria as
8 well as members of the industry to best help
9 certifiers determine commercial availability and help
10 producers and handlers comply with new regulatory
11 interpretation and rulemaking.

12 Florida Crystals would also like to take
13 this opportunity to recognize Jim, Dave, George,
14 Goldie and Rose for their years of dedication and
15 service to the Board, to the organic industry and we
16 wish you all well in your future endeavors. Thank you
17 for your time and consideration of our cause.

18 Questions?

19 MEMBER DAVIS: Thanks, Diane. David Hilts
20 and then we'll have Tom Harding speaking on behalf of
21 Dennis Stiffler.

22 David?

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1 MR. HILTS: Good afternoon, everybody.
2 Thanks again, I want to thank the NOP and the NOSB for
3 their continued hard work in this area and also
4 providing the opportunity for public comment into the
5 decisions for organic agriculture.

6 My name is Dave Hilts. I'm a research
7 scientist, a biochemist with Acadian Seaplants which
8 one of the world's largest manufacturers of aquatic
9 plant extracts. We're located in Nova Scotia, Canada,
10 the east coast of Canada. And I'm here today just to
11 provide some public comment on the on-going sunset
12 review, specifically, the decision on the Materials
13 Review Committee to defer recommendation of the
14 renewal of aquatic plant extracts as they are
15 currently outlined in 205.601(j) on the National List,
16 until technical information is obtained.

17 Acadian Seaplants has supplied aquatic
18 plant extracts to organic growers for the past 15
19 years and we hope to continue to supply aquatic plant
20 extracts beyond 2007 as the benefits of using our
21 products in agriculture have been well documented over
22 the last 40 years, both from our products and aquatic

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1 plant extracts that are produced by a variety of
2 companies around the world.

3 Our products, just for some background,
4 are produced from freshly harvested marine algae and
5 we do use an alkaline extraction process, that is we
6 add a small amount of potassium hydroxide during the
7 extraction to help rupture the cell walls of the algae
8 and thus allowing the beneficial compounds like plant
9 growth hormones, organic acids, carbohydrates,
10 micronutrients, etcetera, to be released into the
11 liquid phase. We then remove cellular debris and are
12 left with a 100 percent, water soluble marine plant
13 extract.

14 There have been some comments or some
15 questions from some in the organic community that
16 manufacturers of aquatic plant extracts like Acadian
17 Seaplants could potentially add excess alkali to our
18 products to fortify it with potassium. And I can't
19 speak for the entire industry, but certainly in our
20 company's situation that is not the case.

21 We use only a minimum amount required to
22 produce a quality extract and our recipe that we use

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1 for the extraction process was developed in
2 conjunction with the National Research Council of
3 Canada and is very sensitive to the actual amount of
4 alkali that we do add. If we add excess or minimum --
5 excess or too little alkali, it leads to major
6 manufacturing problems for us. It leads to major
7 stability problems with the product. So that's
8 something we certainly don't have advocate and we
9 can't do.

10 There's also been some question that we
11 may have petitioned the National Organic Program for
12 the use of phosphoric acid as a pH adjuster as simply
13 a way to fortify our products and synthetic
14 phosphorous. And again, that's not the case. Our
15 product is a complex, organic mixture when it's done,
16 as I mentioned earlier, and it is susceptible to
17 microbial spoilage with bacteria and molds which will
18 then degrade the product.

19 And prior to the final rule being
20 implemented in 2002, we used a synthetic preservative
21 which was found in the U.S. EPA's Inerts List which is
22 a list for inert, but once the final rule came into

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1 effect, we were no longer permitted to do that. And
2 rather than petition the NOP for the use of that
3 synthetic preservative, we looked at the current
4 regulations that were in effect for other products in
5 our group and simply asked that the same annotation
6 that was extended to another biological mixture in the
7 category, namely the liquid fish products, be allowed
8 to us as well, that is, using pH adjustment to
9 stabilize the product.

10 We tried using citric acid which is one of
11 the organic acids that was listed under the annotation
12 and in our product, we simply cannot achieve the pH
13 required to stabilize the product which is down below
14 4, using citric acid. That left only phosphoric and
15 sulfuric and phosphoric was the choice that we pushed
16 for, simply because it's triprotic acid which means
17 you use the minimum of that.

18 One other issue, even if -- the use of
19 potassium hydroxide and phosphoric acid in aquatic
20 plant extracts, it just doesn't lead to agronomically
21 significant quantities of these macronutrients in the
22 final products. Given our application guidelines and

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1 the NPK analysis for aquatic plant extracts, much less
2 than 1 percent of the required nutrient requirements
3 for our crop in any given year could be used, or could
4 be supplied by applying our product.

5 And there's no way, both from an economic
6 fact and from the fact that the residual salt that
7 comes out the aquatic plant in our product, there's no
8 way you could over-apply a product. A producer could
9 not use our product at a thousand times the
10 application guideline and try to reap these things.

11 If the current annotation is not renewed,
12 that would leave only hydrolyzed extracts under the
13 definition that's currently in there and the NOSB
14 under my understanding has interpreted this to mean
15 only reactions with water, and therefore you'd only
16 have a water-algal suspension that would be available
17 out there for producers' use. And we have a pretty
18 good market penetration and I'm not aware of any
19 simple mixtures of just algae and water that are out
20 there and primarily I would suspect we would come back
21 to still being the fact that there are no -- there's
22 no way to stabilize that product.

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1 So just in closing, we request the
2 National Organics Standard Board and the NOP to
3 continue to work together to find a path by which
4 aquatic plant extracts containing minor levels of
5 synthetic processing aids remain a viable source for
6 growers in organic markets and certainly if Acadian
7 Seaplants can provide any information, technical
8 information, we'd be more than happy to do so.

9 CHAIRMAN RIDDLE: Thanks, Dave. George?

10 MEMBER SIEMON: The one percent was of
11 what mineral?

12 MR. HILTS: Sodium.

13 MEMBER SIEMON: The one percent --

14 MR. HILTS: It would be the potassium
15 phosphorous that we would be adding and if you look at
16 the actual analysis of our product and look at the
17 proper requirement for those things, the application
18 outline, it would be one percent.

19 Thank you all for your time.

20 CHAIRMAN RIDDLE: Okay, we have Tom
21 Harding speaking on behalf of Dennis Stiffler. And
22 then Kim Dietz. I don't think Kim -- is she -- hi,

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1 Kim. Sorry, didn't see you back there.

2 Okay, Tom, again.

3 MR. HARDING: Thanks, Jim. Good
4 afternoon. I'm Tom Harding speaking on behalf of Dr.
5 Dennis Stiffler.

6 And Dennis is the Executive Vice President
7 of Food Safety for Coleman Natural Foods and NBC
8 Natural Foods.

9 It's along the same subjects that we've
10 talked about, but first of all I wanted to mention
11 that Coleman is in support of the work of the NOSB and
12 the recommendations that have come forward with
13 regards to materials, by and large, and certainly in
14 principle. And certainly encourages that measure to
15 go forward under the sunset review process.

16 As a brief matter of introduction, we all
17 know that Coleman has been around, one of the pioneers
18 in this business. And I'll just give you some
19 background real quickly.

20 Coleman Natural Foods represents a
21 collection of premiere entrepreneurial founding
22 companies, natural in scope, specializing in the

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1 raising, the growing of natural and organic protein
2 products, all of them in the organic category that are
3 certified under the NOP.

4 Livestock systems include fully integrated
5 production systems, poultry to pre-approved ranch and
6 farm source verification; pork, lamb, bison and
7 affidavit documentation support.

8 The majority of the harvesting and
9 processing of the poultry, fresh prepared foods and
10 controlled company owned are handled in controlled
11 company owned facilities.

12 Outsource harvesting and processing is
13 conducted for pork, lamb, bison, and fully-cooked
14 prepared foods.

15 The marketing brands, just to mention a
16 few, the Coleman Purely Natural, the Rocky Mountain
17 Range, Rose, the Organic Chicken and then we can go on
18 with red meat division. Again, Coleman Natural B3R.
19 The Poultry Division, Pataluma Poultry Processors,
20 certified entity as well, and the Prepared Foods
21 Division.

22 The purpose of this testimony and public

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comment is to address the use of oxidated antimicrobial decontamination interventions to control pathogens in red meat, poultry and prepared foods and to ensure consumers of the most food safe products possible.

The prospective: the general consumer associates organic food products with health, wellness and quality and of course, food safety. Producers and the processors of organic products are vigilant in their efforts to produce crops and raise animals and process products to deliver quality and food safe products to ensure consumers of the safest product possible using processing aids and food contact substances that do not change the very nature of the product that result in residues, and are compliant with the core values of organic production: enhancement of the environment, reducing the amount of chemicals and sustainable practices and methods. And that does not fundamentally change the definition of the organic food or for that matter, the finished product.

The potential pathogens are there and

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1 consumers know that and they expect us to rid the
2 product of pathogens.

3 These pathogens are ubiquitous in the
4 environment. They are found in the fruits, the
5 vegetables, the water, the meat and meat products and
6 in fact, almost everything we eat.

7 The research data -- I'm not going to go
8 into it because it's endless and fairly well
9 substantiated and I just want to say that Coleman is a
10 valuable resource. I hope that you will turn to them
11 as we start to consider these other issues and I'm
12 going to get right into the recommendations and the
13 summary.

14 Oxidative antimicrobial decontamination
15 products that are consistent with FDA's definition of
16 secondary direct food contact additives, 21 CFR
17 173.325, and considered either a food contact
18 substance of a processing aid, 21 CFR 101.100(a) and
19 (3) thus not subject to labeling, should be readily
20 available to organic food processors.

21 I want to insert something here because
22 I've already heard it and I want to be very clear. No

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1 one and Jim raised that point and we appreciated it,
2 no one is asking for the whole list to be approved.
3 We're talking about the very specific, targeted
4 expectations of materials. We're first of all not
5 that crazy and secondly, it's an impossible task. So
6 I want to be very clear about that.

7 It's really important that we look at it
8 in the broader sense. There are only a momentary
9 technical effect on the treatment, but not lasting
10 functional effect and there is a low probability of
11 any significant residue on the finished product.

12 NOP regulations suggest that all non-
13 organic substances including processing aids are to be
14 included in the National List, 7 CFR 205.105(c).

15 USDA has stated that these substances do
16 not need to undergo the normal review and submission
17 of material by manufacturers, other than ingredients,
18 additives need to under January 2003 letter and we
19 cite Dr. Robinson again.

20 Inconsistencies do exist in the
21 interpretation in the approval of processing agents
22 through contacts, substances among certain third party

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1 certifying agents. And that point there is that there
2 is an inconsistency and it does not follow the
3 certifier and we need to correct that problem because
4 of the lack of clarity on this issue.

5 Summary: consumers should come first and
6 be protected, not exposed or do an interpretation of a
7 technical matter that is not clear that affects food
8 safety, ultimately accepting and rejecting an organic
9 product will come from consumers. Oxidated
10 antimicrobials that do not resolve in product
11 technical effect and greatly enhance the food safety
12 of the organic products should be allowed and used.
13 And the matter needs to be clarified and I thank you
14 very much.

15 MEMBER KOENIG: A technical question, and
16 you might be able to clarify it. It's a question of
17 ignorance, I think.

18 So there is a distinction between that and
19 a preservative. So you're saying preservatives have
20 an attainable effect. These have a -- there's a --

21 MR. HARDING: Momentary.

22 MEMBER KOENIG: There's a momentary --

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1 CHAIRMAN RIDDLE: Does it extend the shelf
2 life?

3 MR. HARDING: It doesn't extend shelf
4 life. What it does it extends food safety and I won't
5 get into the shelf life discussion because I'm not the
6 person to answer that question. It's a point.

7 MEMBER KOENIG: It's it a fine
8 distinction? It is a defined distinction that we can
9 access somehow? I look at those and say preservative
10 -- preservatives have the same -- microbial -- but
11 what you're saying is first, it's rinsed, it kills,
12 but it doesn't stay in a functional effect in the
13 product.

14 MR. HARDING: And we would be challenged
15 to find that on the surface, after treated and
16 properly handled. And we're talking about water and
17 vinegar, technical speaking, and most of these
18 materials are sodium chloride.

19 MEMBER KOENIG: And just a clarification,
20 ozone is on our list. What is it used for? Is it
21 similar?

22 MR. HARDING: Thank you for that question.

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1 No, we're not talking about ozone.

2 MEMBER KOENIG: As far as I know, ozone is
3 sort of that same function and I mean it's there. I'm
4 not sure who petitioned, when it was petitioned.
5 Maybe we can ask Zea. Zea may be able to help us with
6 that.

7 MS. SONNABEND: Ozone is used more as an
8 alternative to chlorine for use in water-based systems
9 like hydro -- like in your hot tub. It's not used for
10 cleaning equipment or like that.

11 MR. HARDING: And we are speaking
12 specifically of periacetic acid and acidified sodium
13 chloride.

14 CHAIRMAN RIDDLE: Thanks, Jim. Thank you,
15 Rose.

16 Kim Dietz is the last commenter who signed
17 up.

18 MS. DIETZ: Kim Dietz. I just want to go
19 on the record. These are my personal comments and
20 don't reflect the Smucker Company.

21 I wasn't going to say anything, but I do
22 want to say thank you to this entire Board and all the

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1 outgoing Members. I've had the privilege of working
2 with you guys for the four years previous to this and
3 I know that your hearts and souls and dedication are
4 certainly to the organic industry and I appreciate
5 that. So for all of you, those are my kind words.

6 I support the Federal Register docket to
7 move materials to the organic label, the handling
8 materials that were recommended. This Board
9 recommended them to go into the organic label. I also
10 support that.

11 I support the Handling Committee sunset
12 recommendations. Good job, you guys. I was scared to
13 death that this day would never come and it has, so
14 you've done a great job with that.

15 I also support the deferral on flavors. I
16 believe that I was part of the Handling Committee when
17 we originally chose flavors and colors to be deferred.
18 We know it's a contentious area. It's going to be.
19 Let's just get down to it.

20 I have a couple of comments on that. I
21 suggest that when we do look at flavors, let's go back
22 and look at the minutes from the 1995 recommendations,

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1 pour through those minutes -- I looked through those
2 minutes last week. I think there's a lot of
3 information in there that we need to consider. And,
4 to me, I think the biggest issue that we need to look
5 at is commercial availability on organic flavors and
6 natural flavors. There's a lot of people that have
7 converted to organic. There's a lot of people that
8 haven't. And I think that, as the Board's role, you
9 should look at commercial availability and somehow try
10 to put that in the mix of the decision.

11 I do not support any annotation changes
12 during the sunset review. I'm not sure, I thought I
13 heard you say that, Rose. I just wanted to make sure
14 that -- There's a process for that. It's called the
15 petition process. You can add or remove a material or
16 you can recommend a change in annotations and I
17 believe that that's the way that process should work.
18 And, other than that, that's it.

19 So, good job. I look forward to five new
20 Board Members. And I hope that all of you stay in the
21 industry and continue your good work because we
22 certainly need you.

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1 CHAIRMAN RIDDLE: Thanks Kim. We will be
2 having six new board members. I see Andrea, and then
3 Kevin. Andrea?

4 MEMBER CAROE: Kim, really quickly. You
5 were talking about commercial availability as it
6 relates to flavors. Could you elaborate on that a
7 little bit? I'm not quite sure what you were --

8 MS. DIETZ: Well, for example, I believe
9 in 1995, when flavors were put on the National List,
10 there were no organic flavors. The company that I
11 work for was actually the first company to commission
12 a flavor house and you see that in the Smucker
13 comments. We commissioned a flavor house. Since
14 then, there's a lot of organic flavors out there. I
15 don't believe that companies, one, are using them the
16 way they should. That's my personal belief. And,
17 two, that they're not available to match -- the
18 organic flavors are not available in the same form and
19 function as natural flavors. So, we're not there all
20 the way yet. We're partially there. We're probably
21 fifty, sixty, seventy percent there. But we're not
22 all the way there.

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1 MEMBER CAROE: Just picking your brain,
2 though --

3 MS. DIETZ: Yes.

4 MEMBER CAROE: -- as the expert on
5 materials here --

6 (Laughter).

7 MEMBER CAROE: I'm not an expert. Now,
8 as we look at, I mean, flavors is one of those broad
9 categories and we have some that are widely-available
10 organic and others that are not. So, logistically,
11 I'm trying to figure out -- I mean, we're in a sunset
12 process here, so it's accept or reject. So, what are
13 you thinking. Are you --

14 MS. DIETZ: I think you need to, I mean,
15 you need to seek industry input. I think you need to
16 find out what people are using. Why they're not using
17 organic. They're supposed to be, I would think that
18 if they're available, companies should be using them,
19 although they don't have to because they're on the
20 National List. So, that's an issue.

21 I don't know what the recommendation --
22 logistically, you know, I believe they need to stay

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1 on, because you don't have organics in all functions
2 and forms yet. I hope there's a day that they can
3 come off. We're just not quite there with technology.

4 MEMBER O'RELL: Thanks for your comments,
5 Kim. And my comment was kind of along the lines of
6 what Andrea said. It really relates to the commercial
7 availability and I think we all share your concerns.
8 But, knowing that the sunset process is not the
9 process that we deal with commercial availability of
10 these items. We have to make the determination as you
11 know, whether they stay on the list or off the list.
12 But, certainly, we share your concerns on --

13 MS. DIETZ: Right, but, you know, I mean
14 ideally somebody should petition to change the
15 annotation and add something in there that you must
16 use organic flavors when available. And I don't know
17 how to go about that. We've never tackled that beast
18 yet, when they're both -- when some are available and
19 some aren't --

20 MEMBER O'RELL: Right

21 MS. DIETZ: Flavors are one of those --

22 CHAIRMAN RIDDLE: Yes. I have a question,

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1 and then, Rose -- yes, I see you. I do, but not when
2 I talk.

3 (Laughter.)

4 CHAIRMAN RIDDLE: The question I have is,
5 are there natural flavors that would be non-
6 agricultural, or are they agricultural and therefore
7 more appropriate to be moved to 606. Because that
8 would drive that --

9 MS. DIETZ: Yes.

10 CHAIRMAN RIDDLE: -- development.

11 MS. DIETZ: Yes. I mean I think that's
12 what you're looking for in the TAP. That's the
13 technical information that we're seeking. In my mind,
14 they're twofold. First, commercial availability and
15 really, are they, could they be moved to 606? And
16 that's, as we review these, this material, or these
17 materials, that's some of the questions that we're
18 going to have to answer.

19 CHAIRMAN RIDDLE: Rose?

20 MEMBER KOENIG: Again, some of the things
21 that can be deferred -- it's not necessarily event the
22 technical issue. You know, one of the problems is

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1 that -- and this is what popped up with lecithin --
2 there's no way you can have one group that's not
3 agriculture, the other form is agricultural. It goes
4 back to that definition of non-ag and ag. So, flavors
5 are agricultural, they don't belong on 205.605 period.

6 So that, you know, we had some things that are, I
7 don't know why categorically, they were placed on the
8 list, but if there's something that's agriculture, it
9 can't be --

10 MS. DIETZ: Right, and I don't know if
11 this Board can move things. Again, it's the petition
12 process. We should have repetitioned or done
13 something with flavors before this point, before you
14 have to add or remove --

15 MEMBER KOENIG: Well --

16 MS. DIETZ: -- or maybe that's something
17 that's going to come up --

18 MEMBER KOENIG: -- hopefully, Arthur will
19 be here to discuss. We may not be able to come to the
20 conclusion on these, and we don't necessarily have to.
21 Things that have been deferred, we're not even voting
22 on.

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1 But we need to get that discussion started
2 so that you know during the next meeting what our
3 process is going to e.

4 MS. DIETZ: And I know, I think this will
5 be the hottest issue and the sunset is in 2007 and you
6 have a whole industry relying on flavors right now, so
7 that's why I'm encouraging you to act as fast as you
8 can, start seeking the input that you need on
9 commercial availability and whether they're natural or
10 it should be on 605 or 606. And then make those
11 recommendations fast.

12 As fast as possible. We don't want 2007
13 to roll around.

14 CHAIRMAN RIDDLE: Thank all of the
15 commenters today. It's been some very valuable
16 information. Thanks for taking for your time and
17 coming before the Board.

18 Okay, we're going to go then to Rose,
19 right, with an overview of the sunset review process.
20 Kind of where we got to where we are today.

21 MEMBER KOENIG: And for the sake of time
22 I'm just going to verbally go through it and then I

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1 guess if any Board Members has specific questions, you
2 all have been through this, so you all have been
3 through the process.

4 CHAIRMAN RIDDLE: And there is not a
5 handout in our book.

6 MEMBER KOENIG: The first thing I would
7 like to do is thank all the commenters who came out
8 because if we did not have material to work with, we
9 would have been in trouble.

10 We had some comments. Those we had to
11 deal with the best we could, but there were many
12 thoughtful comments, very specific to the best of
13 people's ability. They gave us some information that
14 we could really think about and I will tell you that
15 the Committees did read each and every comment. I
16 read all the comments as well as the chairs of the
17 Committees and the Committees Members, for those
18 groups.

19 Some individual members may be relying on
20 the recommendations of committees, but it has -- those
21 comments have been viewed by multiple members,
22 especially when they were voting on the recommendation

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1 at the committee level.

2 Basically, we proposed a working document
3 for sunset -- I can't remember if Kim or I was chair
4 at that time. That's how long it seems like it's been
5 that we've been talking about those procedures.

6 The NOP had a Federal Register notice that
7 went out that explained this process and what was
8 required based on comments and what really sunset was
9 intended to mean in terms of what our jobs and
10 obligations were as a Board.

11 And it was correctly stated that we are --
12 as a sunset procedure, we're either voting things to
13 continue as they exist on the list of they
14 discontinue. That is what sunset is. There's no
15 changing. That's part of that process in terms of
16 annotation.

17 But I would like to discuss and we'll talk
18 about this after I've gone through this brief overview
19 are the other options that we can do outside of the
20 sunset process, but clearly sunset and what you're
21 going to see here is either we're accepting the
22 materials and their present annotation or we're

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1 rejecting them and that means in 2007, they would not
2 be renewed, but things are status quo until that time.

3 Do not get delisted after this meeting. It's until
4 the end of 2007.

5 So based upon that proposed working
6 documents, I guess to the naive notions of our
7 committee, we have thought that there would be this
8 great database that was going to be organized and
9 things would be categorized and there would be a lot
10 of forward work that could be accomplished. But
11 unfortunately there was one due date for all the
12 comments and then we have this meeting scheduled a few
13 months down the road, but we have to have our comments
14 out to the public a month prior to the meeting.

15 So we essentially had about 8 weeks or 10 weeks go to
16 through all those comments.

17 So the approach we took as many folks have
18 noticed is kind of doing the easiest groups first.
19 Easiest in the sense that there were just positive
20 that we need this. There was no indication from any
21 of the commenters that it was no longer needed or
22 there was any kind of inconsistencies with the OFPA

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1 criteria.

2 And those, the great body of the
3 recommendations that we're making today that we'll be
4 reviewing are those, in fact, those materials. I
5 asked Arthur earlier, there's about 167 materials that
6 were put forth in the Federal Register notice that
7 have come forth during this process.

8 A number of them, however, are in multiple
9 different use categories so it's not 167 different
10 substances, but if you base them on categorical use,
11 that's how it's reflected.

12 So you'll see, you know, chlorine
13 materials on livestock and crops and handling,
14 although you know, in terms of maybe a deferral or
15 review, you only have to kind of do one technical
16 review for those multiple uses.

17 But -- so we have quite a large slate of
18 materials that we're going to go through and hopefully
19 it won't look like we're just kind of rubber stamping
20 these materials. What we did is after we received all
21 those comments, Arthur gave a hired copy and mailed
22 them to myself as chair of the Materials Committee and

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1 each of the chairs of the Committee received hard
2 copies so that would facilitate their work in terms of
3 organizing their Committees.

4 And then additionally, every Committee
5 Member had access to the web so that they could review
6 the comments from all the individual commenters and
7 the public, also could review those, as you prepared
8 for the meeting.

9 Our first initial Committee meetings kind
10 of set of the procedures. We asked the NOP, there was
11 good collaborative relationship trying to determine
12 how to proceed, what information does the NOP need
13 from the Committees in terms of eventually writing a
14 Federal Register notice for these materials.

15 And basically, based on that feedback and
16 the back and forth between the various Committees, we
17 came up with a format that was used with the livestock
18 and crops committees specifically because of the use
19 categories and all of those lists. So we decided to
20 kind of break the lists apart and have separate
21 recommendations for each category and you'll see as we
22 go through the process that's how we're going to

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1 handle materials.

2 And then the Handling Committee just kind
3 of had a slight -- same kind of format, just a slight
4 variation of that because it's just one kind of master
5 list.

6 So the one thing that I'd like to also
7 state is that as the Committees and most Committees
8 had two to three different conference calls on
9 materials, where the discussed the materials and
10 actually took votes, there was a great effort to make
11 sure that people did not have conflicts of interest
12 and it was asked of Committee members to state if
13 there was any conflict of interest and then the
14 Committee voted to determine whether they felt that
15 this person should or should not vote. And we'll be
16 following that procedure today. I want Committee
17 members to disclose if they do have any kind of
18 conflict of interest, either the company has provided
19 a public comment, let the rest of the Board determine
20 whether that individual should vote or not vote on
21 those materials.

22 And I think that's basically my comments,

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1 Jim.

2 CHAIRMAN RIDDLE: Thanks, Rose. Thanks
3 for reading through all those comments and then
4 screening the drafts from all the Committees and
5 continuing to give comments. Rose?

6 MEMBER KOENIG: That was the sunset
7 procedure. The question that I have for NOP and they
8 can think on and we can think on as far as these
9 deferred materials, as I stated, that some things were
10 pulled because of inconsistency with often the sense
11 that there isn't truly a category, especially in crops
12 that specifically is outlined for particular
13 materials. That might have kind of caused the
14 deferral. Certainly comments provided by the public
15 triggered deferrals and you can see some of the
16 reasoning in the documents, why there were deferrals.

17 As I stated, we know that sunset is not
18 the opportunity to change annotations, but many of the
19 substances that have been deferred have issues that
20 could involve annotations or could involve that it's
21 not just on the list where it should be. In other
22 words, it's going to change.

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1 So the question that I would like to pose
2 and again, it's not going to impact the materials now,
3 but one idea is that we would vote yea or nay in terms
4 of the continuance, but if there are materials that we
5 have received technical evaluations on because we're
6 getting technical -- we're using our TAP contractors
7 similarly to the way we use them somebody petitions
8 something.

9 If we can, in a separate process, as we
10 evaluate these substances and relist them, so that
11 when say we vote on them in March, if that's when a
12 meeting is, they would be going through a separate
13 Federal Register notice as a new listing, a proper
14 listing, a corrected listing and we would at the same
15 time, as we submit our sunset document, those would be
16 ones that would not be furthered after 207.

17 So what we're hoping could happen would be
18 that it would be a simultaneous adding and actually
19 kind of taking off of the list something, but through
20 two separate processes.

21 CHAIRMAN RIDDLE: I don't know if that --
22 if everyone understood or followed that, but my

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1 understanding, I'll just try and paraphrase it and
2 then take comments, would be that if we find through
3 the additional review that a deferred material,
4 something that would be deferred today, we wouldn't be
5 making any of these decisions now, if they could be
6 deferred today, but then the review occurs and it's
7 found that the annotation really is inappropriate.

8 We can't correct the annotation in the
9 sunset process, so instead, that listing would expire.

10 It would truly sunset. But because we got a new
11 review, a new TAP, we have the information to make a
12 recommendation that there be essentially a new listing
13 be added to replace the one that expires. So there's
14 continuity there. Producers aren't left in the lurch,
15 but that's a plan and I think Arthur is still checking
16 to see if that is really a workable approach to this.

17 Andrea, then Julie.

18 MEMBER CAROE: I would propose a different
19 procedure and I would propose that we do the yea or
20 nay vote on these materials and if they are material
21 that may need an annotation change, that we vote to
22 keep it on and allow the petition process to happen

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1 afterwards to change that.

2 However, we've posted these as if -- after
3 this recommendation tomorrow happens, we'll have
4 posted what materials are deferred. We can accept
5 petitions and as these are sent to TAP reviewers, let
6 them know that there is a petition for these to be
7 added in some other form. The TAP reviewer could do
8 double work at that time.

9 But I still think we need a yea or nay
10 vote on it and if it is something that we feel may
11 need a change, I would propose that we vote to allow
12 it to stay on the list and deal with the changes
13 afterwards so that inaction on the second step of that
14 would keep it on the list and keep it in the hands of
15 growers because if it does -- if we try to do the
16 switch over and something happens with that second
17 step, it's off the list and I think that's dangerous.
18 I'd rather keep it on and work the change afterwards.

19 CHAIRMAN RIDDLE: We aren't going to
20 decide this today.

21 MEMBER KOENIG: And I agree, if we can't
22 get guarantees that that it couldn't happen

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1 simultaneous.

2 CHAIRMAN RIDDLE: So I think that's
3 another good idea to consider, another structure.

4 Julie?

5 MEMBER WEISMAN: I have a procedural
6 question in regard to this and I ask for your patience
7 because I'm still in my learning curve.

8 Who is initiating that petition?
9 Everything that I've been exposed to up until now,
10 petitions have been initiated by folks out there. And
11 that's the question that I was posing to Arthur.

12 MEMBER KOENIG: The NOSB certainly has the
13 authority to have the national list, okay? Now in
14 normal cases, things that are brought forth are sort
15 of the mechanism of a petition is out there so that
16 the public can say hey, we need this. And
17 essentially, we take that petition and do a technical
18 review. Our vote is based on that technical review.
19 It's -- we don't necessarily -- the reviewer may glean
20 information from the petition, but basically we look
21 at the TAP and sometimes we do look at the petition to
22 augment that information.

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1 And that's the question I had procedurally
2 myself to Arthur. Essentially, it's not that we're
3 pulling something out. We're going to have technical
4 information, we would fill out the same sheets and
5 have to go through the same procedure and look at the
6 same criteria. It's just -- it's true, it would be a
7 process where the call is initiating from the Board,
8 rather than -- so that's -- so those are some of the
9 issues that have to be discussed.

10 Can I state one more comment? The only
11 thing that disturbs me with the concept and I know for
12 facilitating things and I'm willing -- I'm certainly a
13 compromiser, but you're going to have to convince me.

14 I think in the spirit of the sunset procedure, if we
15 knowingly are aware of a problem, and we just sort of
16 ignore it by saying okay, well, let's automatically
17 renew it even though we know some things, then what
18 the heck is sunset all about if we're going to just
19 rubber stamp practically everything? That's just -- I
20 just put that out there.

21 MEMBER CAROE: Just a response to that.
22 If we know there's a problem with material, we don't

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1 renew it, period. We don't renew a material if
2 there's a problem with it.

3 If the annotation isn't exactly the way we
4 want it or the community wants it -- there's a
5 petition process for that, Rose. I mean we need to be
6 very receptive to that and pay attention to those
7 petitions as they come in, like any other petition. I
8 mean there may be materials that aren't up for sunset
9 would be the same thing.

10 CHAIRMAN RIDDLE: Arthur and then Bea.

11 MR. NEAL: I'll be quick. We agreed upon
12 early in the process no change in annotations. And
13 with this particular process, what we have we've got
14 substances that have been on the list for five years
15 and people had five years to petition. Now we get to
16 sunset and we want to do it through the Board which
17 complicates everything because we've got other people
18 in the audience that want to have annotations modified
19 as well.

20 So you've got the question is will the
21 Board entertain those requests too? So either we keep
22 it on or we take it off. That's what sunset is about.

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1 The continued use of a prohibition or allow a
2 substance.

3 CHAIRMAN RIDDLE: Bea and then Goldie.

4 MEMBER JAMES: I just was going to make
5 comment about adding in another process at this stage
6 in the game, especially with the consideration that
7 we're going through a big transition here on the Board
8 and that to leave behind a new process it's just -- I
9 just feel like we need to make the votes today on the
10 items and then if we have a new process that we want
11 to implement, that we need to formulate that before we
12 just go ahead and say okay, we're going to do this on
13 these items. Because I don't feel comfortable knowing
14 that you're not going to be here next time and there's
15 this new process that we're trying to implement.

16 MEMBER KOENIG: And again, it's not --
17 what we're discussing here is not -- the sunset
18 procedure is the sunset procedure. I'm not saying
19 that we're changing that. I think we're all on the
20 same table. Nothing can change annotation-wise.
21 We're either keeping what we have or removing
22 something that -- you know.

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1 What I'm saying is that and it's not on
2 the materials that I think that we're dealing with
3 today, so we're trying to be proactive of what's
4 coming up. I'm saying that there may be things that
5 the Board just cannot live with in terms of -- then
6 they take it off. But I'm saying if we have the
7 technical information in hand, we have TAP reports.
8 We just spent X amount of dollars from our contractor,
9 if we have the technical information and we want to
10 reconsider it, can we at that time reconsider it, not
11 for sunset, but as adding something to the list.

12 CHAIRMAN RIDDLE: Arthur or Barbara?

13 MS. ROBINSON: I strongly recommend that
14 you keep the sunset process as clean as possible. The
15 more you complicate this thing, the worse it's going
16 to get. I mean Bea is making a good point, but that
17 point is valid whether Members are going on and off
18 the Board regardless. But you know, the more things
19 that you say well, maybe this is an opportune time to
20 reconsider this or that is just going to make this
21 thing grow exponentially and get more and more
22 complicated and you will -- trust me on this. When we

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1 have tried to say well, while we're at it why don't we
2 do this, it opens doors and --

3 (Laughter.)

4 You wouldn't believe what starts falling
5 through the doors. In fact, you know what happens
6 when we do that.

7 The petition process is an on-going
8 process that exists all the time. It is open to
9 anybody all the time. And as we've had this
10 discussion for I don't know how many years,
11 annotations have been a problem all the time.

12 So in one respect, we could all say well,
13 maybe this is the time to learn now that careful
14 annotations are probably better. This is a good time
15 to take advantage of hindsight and say let's be
16 careful how we annotate in the future. But if you
17 feel that strongly that something is so badly
18 annotated or the information that you're now getting
19 from a review says we don't like this material, I
20 really -- take it off, you know?

21 If an annotation alone can correct the way
22 it's being used, why do you feel that badly about it?

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1 Keep sunset simple. It is a complicated enough
2 process as it is. Annotation should not be the trap
3 door by which you either put a material on this list
4 or take it off. The petition process is for that.

5 CHAIRMAN RIDDLE: Thanks, Barbara. And I
6 anticipate that once some of these deferred materials
7 come back from Committees with recommendations to
8 remove which may happen on some, if it's still
9 necessary, the Board is going to hear about it and
10 that could stimulate a petition.

11 We got a lot of interest just by
12 recommending to defer some things at this meeting,
13 just for further study and there's nothing that will
14 gather interest like recommending to remove something.
15 I guarantee that.

16 Before we -- yes, I'm sorry, Goldie. I
17 think I have you on the list.

18 MEMBER CAUGHLIN: I guess what troubles me
19 is that a lot of things would not have been approved
20 had they not been annotated as we annotated them,
21 number one. And there is no separating of the
22 annotation from the appropriateness of that product.

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1 They are inextricably tied together. So it is a
2 separate issue, no matter how safe that product is, we
3 saw fit at the time we put it on there, or another
4 Board did, that it was annotated because we didn't
5 feel comfortable giving it a blanket type of thing.

6 And I think what we heard here today about
7 the lidocaine and some of the other things is a good
8 reminder that maybe users and certifiers also have to
9 have a wake-up call. They jolly well are responsible
10 for the reading of the proper use of those products
11 with annotation. If it means that we have to come up
12 with clarity in how they are listed on labels or
13 whatever, the annotation is tied to it. It is not
14 something that is just ho hum. And I think that's
15 very appropriate that this is the time for that wake
16 up call. Like you say, it isn't just things that
17 we're looking at right at this moment.

18 When we first started five years ago,
19 there was a great deal of discouragement to the Board,
20 do not annotate, do not annotate, do not annotate.
21 Well, it became too damn difficult. The fact of the
22 matter was it was ridiculous. We had to in good

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1 faith, in good workmanship frequently find that those
2 products were something that we felt appropriate to
3 approve, but they had to be annotated as specifically
4 as they were. So we did cross a threshold somewhere
5 along the line where it became more common to
6 annotate. And I don't think that is wrong. I just
7 think that we have to find a way to deal with it once
8 it's there.

9 MEMBER KOENIG: I don't think the
10 annotations, it's not that all the annotations don't
11 work. The annotations that we're having the most
12 difficulty with are annotations that limit
13 formulations, that in the annotation, in and of
14 itself, specifies -- either it's aquatic plant
15 extracts is a good example -- it's listed wrong. If
16 it's a certain pH adjuster or an extraction buffer,
17 then that buffer should be listed.

18 So the problem is do you want us to
19 perpetuate a bad listing or do you want us -- that's
20 what I'm saying, how do we fix -- you know if you're
21 going to say you'll work to fix it some other way and
22 for us to proceed and don't worry about fixing things

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1 with this process, that's fine, but we need to know
2 that we're not kind of rubber stamping a bad listing.

3 MR. NEAL: Barbara said what I was about
4 to say. We fix it outside of sunset through petition.

5 MEMBER WEISMAN: If that is true, then I
6 just want to have some clarification. Does that mean
7 that we're just doing sunset. Sunset is sunset and
8 that there will be no consideration of petitions until
9 after October 21, 2007.

10 MEMBER CAUGHLIN: It doesn't mean that at
11 all.

12 MS. ROBINSON: Someone could be before
13 this Board today, except it's not on your agenda.
14 Someone could have brought a petition before this
15 Board today.

16 MR. NEAL: There will be petitions
17 considered at the next spring meeting in addition to
18 sunset.

19 CHAIRMAN RIDDLE: George?

20 MEMBER SIEMON: So of course, I can say a
21 lot, but I'm trying to play within the game rules and
22 obviously somewhere we established a policy that we

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1 were not going to do annotations just to go back in
2 time. That was our own internal policy we adapted?

3 CHAIRMAN RIDDLE: No, the Federal
4 Register, as I recall, did not say that. It was more
5 that the Board and the Program agreed that annotations
6 were not to be changed and really, the intent was not
7 to add or restrict use through the sunset process by
8 changing its annotation.

9 The technical correction of an annotation
10 that's just plain wrong should be a separate issue,
11 but it may not be.

12 MEMBER SIEMON: So what Rose is saying in
13 part is dealing with our work load. Where we got
14 this, it's all fresh in our mind, so I understand
15 totally where she's going from the work load. So what
16 if somebody petitions on a deferred item between now
17 and the next meeting to deal with these kind of
18 issues, where would it go? Would we deal with it at
19 that time, since we're in the work load mode? Or
20 would we not?

21 CHAIRMAN RIDDLE: I think that would
22 trigger the process.

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1 MEMBER SIEMON: So therefore the message
2 is if there's any annotation issues on the deferred
3 ones, now is a good time for someone to petition, is
4 that right?

5 Then we would be dealing with annotations
6 through that process. You asked what process could
7 happen? There it is. We need someone in the public
8 to petition on those items because I agree about the
9 work load. We're going to have the TAPs in our hands.
10 We're going to refreshed on these issues. Then is
11 the time to do it.

12 CHAIRMAN RIDDLE: Rose?

13 MEMBER KOENIG: We are in agreement. I
14 concur with that idea. See, I look at some of these
15 issues, it's a programmatic issue. If something is,
16 for whatever reason, is not consistent with OFPA, and
17 it's on there, or if something is an agriculture
18 product that's listed under a title that says
19 nonagricultural, that's a programmatic problem. I
20 don't see why anyone in the public and no one's best
21 interest or self-interest if something is listed
22 wrong. It's your job, not our job.

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1 MR. NEAL: Imagine NOP making an ad hoc
2 decision on yeast.

3 (Laughter.)

4 That's not a programmatic decision.

5 (Laughter.)

6 Some say it's listed wrong.

7 MEMBER CAUGHLIN: It's suicide.

8 MEMBER KOENIG: That's a good point. So
9 you aren't going to do anything, okay.

10 (Laughter.)

11 Good thing I'm getting off the Board. I
12 guess I can start the petition.

13 (Laughter.)

14 CHAIRMAN RIDDLE: Okay. Now before we
15 start the first presentation and first on the agenda
16 will be Livestock Committee. I have a few things I
17 would just like to get clear. One is Rose already
18 mentioned that if any of you have a unique interest in
19 a substance that's coming up before us, I'm going to
20 leave the burden on you to bring that up and reveal
21 it. I'm not going to repeat it every single time that
22 something comes up.

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1 So we'll rely on you to bring it up at
2 that time hopefully. So that's one thing.

3 The other is the whole concept of dealing
4 with something while it's fresh in our minds is
5 something that I've tried to do as Chair and that is
6 vote on a topic when it's being discussed, when we've
7 reached conclusion of debate. And right now the
8 agenda says voting tomorrow which would mean
9 revisiting everything tomorrow. I'd rather we, if we
10 reach conclusion on a specific Committee
11 recommendation or a section of a Committee
12 recommendation, I'd like to go to a vote, unless
13 there's a reason that the Committee needs to meet and
14 change and we need to bring it back up again tomorrow.

15 So that's how I would propose, unless we
16 discuss on Executive Committee call in October and
17 agree that that would be the best way to proceed. So
18 does anyone have objection or concern with that plan?

19 MEMBER KARREMAN: So you're saying we're
20 actually voting today on these things?

21 CHAIRMAN RIDDLE: Right, each of the ones
22 that are ready to a vote, unless they're being changed

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1 by a Committee, I would like to be able to vote as we
2 go along instead of having to revisit everything again
3 tomorrow, despite how much fun that could be.

4 (Laughter.)

5 MEMBER KARREMAN: That's fine. I mean
6 it's just not on the agenda that way.

7 CHAIRMAN RIDDLE: I understand that.

8 MEMBER KARREMAN: You might want to check
9 with NOP. I don't know.

10 CHAIRMAN RIDDLE: Well --

11 MEMBER KARREMAN: Fine. I don't care.

12 MS. ROBINSON: You set an agenda and
13 notify the public. So how are you going to vote?
14 People may be coming specifically to hear votes at
15 certain times. I know it's more convenient to do it
16 the way you want to do it, but people have signed up
17 to come tomorrow and to hear votes on certain things.

18 I would feel a little more comfortable if you kind of
19 stick to it the way it's already set up.

20 CHAIRMAN RIDDLE: Okay, I am hearing
21 objections. Overruled. No, I'm overruled. Not you.

22 That's fine. It's just sometimes I like common

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1 sense.

2 MS. ROBINSON: In the future, just for the
3 record, I would prefer you do that.

4 CHAIRMAN RIDDLE: That is what we have in
5 the year I have been Chair. This kind of fell through
6 the cracks in how the agenda got structured. Anything
7 else? That's how we'll do it. We'll only talk today
8 and we'll vote tomorrow and hopefully we won't forget
9 about what we talked about between now and then.

10 MEMBER O'RELL: I think it would certainly
11 be helpful if we take this to the point of discussion
12 at least for those recommendations that we can, if we
13 can get to total agreement and kind of just leave it
14 there and say okay, we're here ready to vote, but
15 because the way the agenda is published, we will vote
16 tomorrow so that we don't have to go through a total
17 repeat.

18 CHAIRMAN RIDDLE: Yes. So we will be
19 identifying, if there are any outstanding issues or
20 changes to the drafts today.

21 Okay, thanks for that.

22 (Laughter.)

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1 So Mike, are you ready to begin the
2 Livestock Committee presentation?

3 MEMBER LACY: Jim, I do want to first of
4 all thank the entire Livestock Committee for their
5 hard work on the recommendations. In particular, I
6 want to thank Nancy for putting together the drafts;
7 Rose, for her help and advice to the Committee getting
8 their recommendations together; and also to Arthur,
9 for his able assistance. We couldn't have done any of
10 this without a lot of people's help.

11 On the very first one, I'm just going to
12 read the Committee recommendation. Ours are pretty
13 straight forward, but we would be, the Committee would
14 be glad to answer any questions or give any rationale
15 that we can give, but in the interest of time, I'll
16 just stick with the recommendations and then we'll
17 answer any questions that you have.

18 Just as a clarification edit, I think
19 right above where it says Committee recommendation
20 we've got four lines there that are sort of -- some
21 input from Rose and we need to delete that.

22 We had deleted what she was questioning.

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1 That no longer is in there and we just need to delete
2 her aside.

3 So to begin with, the Livestock Committee
4 recommends the renewal of the following substance in
5 use category: alcohol, that would be ethanol,
6 isopropanol, then aspirin, biologics, chlorhexadine,
7 chlorine materials, electrolytes, glucose, glycerin,
8 hydrogen peroxide, iodine, magnesium sulfate and
9 phosphoric acid.

10 The Livestock Committee recommends
11 deferring the vote on oxytocin and parasiticides. And
12 the vote on that was 5 yes, 0 no, 0 abstained.

13 CHAIRMAN RIDDLE: Nancy?

14 MEMBER OSTIGUY: I don't remember at this
15 point all of this, the discussion, but to be
16 consistent with the recommendations of the other two
17 Committees, I would like to see chlorine materials
18 moved to deferred and that way we'll look at chlorine
19 materials as a group for all purposes, rather than
20 splitting it off as we have it now.

21 CHAIRMAN RIDDLE: And that was consistent
22 with my understanding from earlier today that the

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1 reports are in and it applies to all three categories.

2 So if the Committee would consider that
3 before bringing it back up for a vote tomorrow. Any
4 other comments on -- Julie?

5 MEMBER WEISMAN: I had a question about
6 ethanol being on the list. Is there a reason why
7 organic alcohol can't be used for this purpose?

8 MEMBER LACY: I don't know. Can anybody
9 help me out with that?

10 MEMBER KARREMAN: I think in veterinary
11 procedures, if I use ethanol, I think other
12 veterinarians out there in practice may not really
13 have any need to get organic alcohol except for maybe
14 one farm. So I would take that into consideration if
15 it's for veterinary use, but maybe from farmers' point
16 of view, I don't know. I won't answer for that.

17 CHAIRMAN RIDDLE: Rose?

18 MEMBER KOENIG: If it's listed, it's
19 considered synthetic.

20 If it's not for food use, organic is not a
21 requirement. I mean once a substance is on there,
22 except in the area of handling and commercial

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1 availability, there's -- I don't know if that answers.

2 MEMBER CAROE: My question with the
3 alcohol, is it perhaps being used as a solvent with
4 some other listed material for application purposes?
5 I don't know. It's a pretty universal solvent,
6 alcohol. I don't know if something is dissolved in it
7 for using topically or is that happening? Because
8 that mixing may happen at a pharmaceutical or
9 something.

10 MEMBER KARREMAN: Yes, absolutely.
11 There's -- first of all, you have the alcohol prep
12 pad, so if you want to give an injection to an animal,
13 it's always wise to use an alcohol prep pad or you
14 know, douse them with a bottle of alcohol. That would
15 not be organically available, easily, for
16 practitioners, let's say. But also, there's botanical
17 tinctures that definitely have alcohol base, but
18 there's more and more that do have organic alcohol in
19 them for sure. And I source them and some other
20 veterinarians do as well. But I don't think you can
21 split that out here.

22 MEMBER KOENIG: Are you questioning

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1 whether it's synthetic or not?

2 MEMBER KARREMAN: Commercial availability.

3 MEMBER KOENIG: Even if it wasn't -- on
4 the handling side, even -- the issue wouldn't be
5 synthetic. The issue is organic and nonorganic. But
6 I understand the -- you know, it's a different. There
7 are pharmaceutical issues and it's not a food, it's
8 not an ingredient. It's not a food.

9 MEMBER WEISMAN: What you're saying is
10 valid. The organic is not valid. We don't even need
11 to go there on this, because if it's on the list, that
12 means that it's considered synthetic, okay?

13 MEMBER KOENIG: My only question is is
14 there a reason why organic alcohol can't be used --

15 MEMBER WEISMAN: Forget the organic
16 because it's either synthetic -- so you're saying
17 there's ethanol out there that you believe is not --

18 MEMBER KOENIG: There's organic alcohol
19 that's highly commercially available which I know it
20 was not when this list was created. So I mean I think
21 that's a legitimate sunset.

22 MEMBER KARREMAN: I don't see that

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1 commercially available, organic alcohol. I don't see
2 sourcing my veterinary supplies.

3 MEMBER KOENIG: Let me go back to that.
4 Get rid of the organic, okay? On the livestock
5 material, this list is either -- these materials are
6 synthetic. That's why they're there. If you know
7 that there's an alcohol that's produced that you can
8 use in veterinary medicine that is not considered a
9 synthetic based on our -- we have a somewhat working
10 document on this definition synthetic, then we
11 shouldn't list ethanol.

12 The reason why it's there says that any
13 form of ethanol can be used because we're
14 acknowledging that there's not a natural form out
15 there, so I think your question is valid. Your
16 organic, that doesn't matter a hill of beans, okay?
17 It's whether it's natural, nonsynthetic or synthetic.

18 CHAIRMAN RIDDLE: Arthur and then Nancy.

19 MR. NEAL: Just to kind of clarify what
20 Rose is saying, the organic commercial availability
21 issue only relates to food processing. So the only
22 thing that really matters here -- are there

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1 alternatives? That's something that should be
2 considered before placing it on the list.

3 MEMBER KOENIG: Can I call up Zea perhaps
4 or someone in the audience who might have historically
5 been there when this was reviewed? Or Emily?

6 CHAIRMAN RIDDLE: Emily is raising her
7 hand.

8 MEMBER KOENIG: Brian?

9 MR. BAKER: Brian Baker. Organic
10 Materials Review Institute and Technical Advisory
11 Panel reviewer in the 1995-1996 and I don't think I
12 was representative to certify a representative on the
13 NOSB at the meeting where it was discussed, but I was
14 certainly present at that meeting.

15 What Rose said is much the basis for the
16 recommendation to add it to the National List.
17 Ethanol can come from the fermentation of sugars, but
18 it can also be synthesized by the reaction of
19 ethylene. And there was a recognition that
20 pharmaceutical grade ethanol is at times from
21 synthetic sources and that in any event, just to be on
22 the safe side so that certifiers' hands weren't tied

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1 and they didn't have to go through an additional
2 process of reviewing the ethanol being used for the
3 applications described by Hugh as a matter of
4 expediency, ethanol was put on the National List as a
5 convenience.

6 CHAIRMAN RIDDLE: Thanks, Brian. Nancy?

7 MEMBER OSTIGUY: I would also then like to
8 move ethanol to the deferred list and we can explore
9 this issue.

10 MEMBER KOENIG: If we are discussing it,
11 I'm not in favor of that. I think that provided the
12 explanation, because I just don't think it's a
13 practical thing to spend our resources on because the
14 veterinary-grade stuff is just probably not going to
15 be the same. It still goes back to the FDA, stuff you
16 can use on animals is a stricter code than we can use
17 ourselves.

18 (Laughter.)

19 CHAIRMAN RIDDLE: Okay. Bea? Dave?

20 MEMBER CARTER: I also oppose deferring
21 because I think there's a difference between synthetic
22 and nonsynthetic and organic and this whole

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1 discussion. Unless you want to make the case that
2 using an alcohol prep on beef cattle is a food contact
3 surface.

4 (Laughter.)

5 MEMBER CAROE: Could you go over the two
6 materials that were put on the list to defer and what
7 -- I didn't see any comments on those materials, but
8 maybe I missed them. Were those items that were
9 identified by the Committee as needing more
10 information or were they -- did you receive comments?

11 MEMBER LACY: We received comments. There
12 were comments on those two.

13 CHAIRMAN RIDDLE: There is discussion of
14 it in the Committee Summary.

15 MEMBER OSTIGUY: Several commentators
16 stated that chlorhexadrine, chlorine materials,
17 oxytocin, ivermectin and hydrogen peroxide should be
18 removed from the list.

19 MEMBER JAMES: I have a question, Nancy.
20 You mentioned that you wanted to move the chlorine
21 materials to deferral to match up with what some of
22 the other Committees are proposing and 205.605 has it

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1 as a renewal and 205.601 has it as a deferral and I
2 just -- I'm a little confused as to exactly what and
3 why we are moving chlorine materials to a deferral in
4 two areas and not in the other and I'm also wondering
5 why we would defer chlorine materials, in general, as
6 a disinfectant for equipment and surfaces.

7 MEMBER OSTIGUY: I was going to recommend
8 that we move for deferral the chlorine materials under
9 205.605(b) anyway. And the reasoning is based upon
10 some of the comments from reviewers having to do with
11 chlorine reactivity, etcetera. And doesn't mean that
12 it wouldn't be renewed. It's just a matter of looking
13 at more recent data because it happened. There's
14 studies that are out that we've not considered
15 previously.

16 MEMBER JAMES: Right, and I heard one of
17 the lobbyists talk about how we're not consistent with
18 our solutions, but I just have a little bit of concern
19 about that.

20 MEMBER OSTIGUY: It is not that I am
21 necessarily predisposed that they're going to come off
22 the list. I just feel that we should evaluate the

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1 current data.

2 MEMBER KARREMAN: I am a little hesitant
3 with deferring chlorine, actually, because it's such a
4 vitally basic major compound for hygiene in the milk
5 cows by state regulations and what not, cleaning dairy
6 equipment and I don't think there's any alternatives,
7 maybe there are some coming out, but I think it has to
8 be kept in mind.

9 MEMBER LACY: Pardon me, the way I
10 understand it, Jim has just suggested that we consider
11 that which we will do at our meeting this afternoon
12 and the Livestock Committee will decide whether to
13 defer or not.

14 MEMBER CAROE: It would just make sense if
15 we defer this material for any of the list, all that
16 means is that we've requested more information on it.

17 It doesn't make any sense to vote on it if we know we
18 have more information coming in on it. We can approve
19 it now or we can approve it later, if it's a good
20 material. But if we've got more information coming
21 in, why not just wait?

22 MEMBER JAMES: Is there a TAP review being

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1 done on this?

2 MEMBER CAROE: Yes.

3 MEMBER LACY: That has already been
4 commissioned.

5 CHAIRMAN RIDDLE: Anything else on this
6 section?

7 MEMBER LACY: On 603(a)?

8 MEMBER OSTIGUY: I have a comment that I
9 want to make. We need to keep in mind that the goal
10 is is that everything that we are renewing or saying
11 will go off the list, that's all going to happen at
12 the same time. So we're not going to end up in a
13 situation where we won't have gotten around the
14 chlorine and it ends up going off the list because we
15 just haven't got there yet. That's not in the
16 projections.

17 MEMBER LACY: Okay, let's go on to 603(b)
18 and again, I don't think I prefaced it last time, but
19 these recommendations are made based on comments
20 received. The Livestock Committee recommends the
21 renewal of the following substances in this use
22 category: copper sulfate, iodine, lidocaine, mineral

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1 oil, and procaine.

2 We recommend deferring the vote on
3 hydrated lime. And again the Committee vote was 5
4 yes, 0 no, 0 abstained.

5 Any questions?

6 (Pause.)

7 Then we will proceed to 603(c).
8 Recommendations made based on comments received.
9 Livestock Committee did not have -- there were no
10 substances in the category of recommending for
11 renewal. We did recommend deferring the vote on milk
12 replacers and again the vote on that was 5, yes; 0,
13 no; 0, abstained.

14 MR. NEAL: Two comments. One, just an
15 update on lime hydrate. We have asked for a TAP on
16 that. So we'll probably need to be in touch with you
17 about what information you're looking for and with
18 milk replacers, one of the questions is probably going
19 to be is that a synthetic or is the issue a nonorganic
20 milk replacer, because it may be listed wrong and
21 that's something we have to think about.

22 MEMBER SIEMON: I was going to ask did the

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1 Committee define what technical information they
2 wanted to know for milk replacers? It's kind of the
3 same question.

4 CHAIRMAN RIDDLE: And this was one that
5 the Committee had already red flagged and I don't know
6 if we had come up with a list of questions yet. But
7 it's certainly something the Committee did do.

8 MEMBER SIEMON: I think we wanted to know
9 how to define emergency as well. That was part of
10 this. I just didn't know if there had been some more
11 technical --

12 MEMBER LACY: It seems like it was a
13 question of whether there were organic substances
14 available.

15 Any other questions on 603(c)? Then
16 proceeding on to 603(d), recommendations made that are
17 based on comments received, the Livestock Committee
18 recommends a renewal of the following substances in
19 this use category: trace minerals and vitamins.

20 There were no other recommendations and
21 again the vote on that was 5 yes, 0 no, 0 abstained.

22 MEMBER KOENIG: I just wanted to ask the

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1 Committee to consider the comment that came about on
2 the fact that both of those materials were added,
3 again, historical data without a review and it was
4 sort of they would just be placed on temporarily to
5 get them on there. I don't know if we considered
6 that.

7 MEMBER LACY: I don't think any of us were
8 aware of that.

9 MEMBER SIEMON: Didn't we clarify this in
10 2000? This wasn't just in 1995.

11 MEMBER LACY: That's what I was thinking.

12 MEMBER SIEMON: It was the first meeting
13 you were at.

14 MEMBER LACY: Yes.

15 MEMBER SIEMON: This talks about it being
16 '95, but it was in 2000 that we endorsed this to this
17 degree.

18 CHAIRMAN RIDDLE: Since 2000, yes, in
19 recent history.

20 MEMBER KOENIG: That was one there was a
21 TAP on it?

22 MEMBER SIEMON: There was no TAP in 2000.

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1 MEMBER KOENIG: Could you approach and get
2 it on the record?

3 MEMBER SIEMON: I didn't say there was a
4 TAP. I'm just saying it wasn't something we did in
5 1995. It was something we did consciously in 2000,
6 knowing there was a TAP, as compared to what was said
7 in 1995.

8 CHAIRMAN RIDDLE: Brian?

9 MR. BAKER: Right and OMRI's comment
10 there's been no TAP review. There remains confusion
11 about the standard of identity and it's not clear
12 what's being discussed here. It's not clear what
13 limitations, what restrictions apply, particularly
14 with other regulatory language and in other contexts
15 and OMRI respectfully requests that a TAP review be
16 conducted on these substances.

17 MEMBER SIEMON: On every one of these, for
18 example, your list here, all these is what you're
19 saying?

20 MR. BAKER: First decide whether the
21 categories are appropriate and whether a case-by-case
22 review is involved. Some of these are available from

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1 organic sources. Some of these are available from
2 nonsynthetic sources. Some of these are from
3 genetically modified sources. It is very difficulty
4 to distinguish between all of these different sources.

5 Some of them are on the Food and Drug
6 Administration's 21 CFR list. Some of them are
7 approved the Association of American Feed Control
8 officials and are not on 21 CFR.

9 So there is confusion there as to what FDA
10 approval means. Of course, we recognize that the NOSB
11 made its recommendation in 2000 and we are using that
12 recommendation as guidance, but I can assure you that
13 not everyone is clear or consistent on what that
14 guidance means or how it is being implemented.

15 CHAIRMAN RIDDLE: Do you still have
16 something to add, Arthur?

17 MR. NEAL: It is kind of directed at
18 Brian's request and concern. It sounds like Brian's
19 concern is more of a clarification that he seeks which
20 could be restricting or it could be expansive which is
21 not necessarily part of sunset, but a part of
22 reviewing those materials for further changes.

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1 We're very aware of the issue that you're
2 discussing, some people want to know about and I think
3 you're probably talking about proteinated chelates
4 which the Board has already addressed in a recent
5 meeting that proteinated chelates are already approved
6 for use through this listing. But if you want to go
7 further and you want to open that back up again, I
8 don't think the sunset is the place to do it.

9 CHAIRMAN RIDDLE: George?

10 MEMBER SIEMON: Just the way we left it
11 was we approved them, but then we identified the ones
12 with concerns and then we TAP reviewed them, so we
13 kind of went at it the opposite way, acknowledging
14 that some of these need to go off. So we need
15 petitions on these to take them off, rather than go
16 through the whole list. That's just the way we did
17 it, right or wrong. And that's why we looked at
18 proteinated chelates and the other ones. We
19 identified the ones and we did TAPs on them, just to
20 get a listing.

21 CHAIRMAN RIDDLE: And then I have Kim and
22 Zea to offer some further background.

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1 MS. DIETZ: A point of confusion, now that
2 I'm out here.

3 The sunset process, we agreed on a
4 process. The Committees were charged with
5 recommending materials that should be deferred, based
6 on contentious areas, whether there were not, a public
7 notice went out. You were supposed to receive
8 comments and based on those comments, recommend to --

9 CHAIRMAN RIDDLE: For the record, who are
10 you?

11 MS. DIETZ: Kim Dietz. Recommend to
12 continue to allow or remove. And what I'm seeing now
13 is that you're actually up here deferring materials
14 that didn't go through that public process and I'm
15 questioning the process because what's going to happen
16 is if you defer materials now, how is the public going
17 to know you deferred and have an opportunity to give
18 public comment on them?

19 So it's just a little bit confusing. I
20 don't really know if there's a problem with that, but
21 you've made a recommendation to allow the chlorine
22 issue just because the other Committees deferring, you

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1 want to defer handling and the others, I'm not sure
2 that's consistent if you've got no negative comments
3 from the public on those materials.

4 Out here, it seems a little jumbled.

5 MEMBER KARREMAN: In livestock, there was
6 one person and said synthetics should be off the list
7 for each and every product that we have to address
8 that.

9 MS. DIETZ: But people had 30 days to
10 comment on the recommendation and you heard no
11 comments until today's public comment about taking
12 something off or deferring it, so just make sure
13 however you continue that you give people the
14 opportunity to say what they want to say on it.

15 MEMBER OSTIGUY: There were comments to
16 defer chlorine that came in for all uses.

17 CHAIRMAN RIDDLE: And the Board,
18 ourselves, have made a recommendation on this. And I
19 have Zea and then Rose.

20 MS. SONNABEND: Zea Sonnabend, former TAP
21 contractor. We did in 1995 or 1994, start reviewing
22 some of the livestock minerals, particularly. Like I

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1 can remember setting our reviews for cobalt or
2 manganese or some of these individual things. But
3 what we found and what you have from Brian is although
4 it came in to us to review as cobalt, when you start
5 looking into where it comes from, it's cobalt acetate,
6 cobalt carbonate, cobalt sulfate, and like 12
7 different forms of just cobalt. And so if cobalt is
8 just one of the many vitamins and minerals that you're
9 talking about, that's where the NOSB got into a
10 quandary and went well, how do we know whether cobalt
11 carbonate is better than carbonate manganate, you
12 know, like that. And so that's when it was decided to
13 group them all together which led to the 2000
14 decision.

15 But there are some old -- I have some
16 documents about several of the minerals back at home,
17 however you decide to re-review them.

18 CHAIRMAN RIDDLE: Rose?

19 MEMBER KOENIG: Yes, I would just like to
20 address both Kim and -- as far as the chlorine stands,
21 we have new information. I think it's a conservative
22 approach because we've already paid money to get the

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1 second for information, look at it before we make a
2 decision and then have to go back. So again, deferral
3 is not denying. It's basically saying hold off, we're
4 getting new information, why rush into decision. We're
5 looking at the same material in three years.

6 As far as comments, at all times we look
7 at comments from the public. We would like it to be
8 the form of a Federal Register, but we were even told
9 by Barbara, it's not that we don't consider comments
10 after that time, it just certainly improves the
11 process if we can get them as we're going through it
12 procedurally.

13 So I think that accepting public comment
14 regarding materials, whether it's new information or
15 not, it's our responsibility to consider that
16 information and that's what we're doing. We're not
17 obligated to necessarily follow the comments, but we
18 certainly want to consider that information. And
19 that's all I'm saying is that in terms of the
20 minerals, we've heard some discussion. We certainly
21 can discuss it more, but this may be one that
22 Committees would like to discuss a little bit more

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1 before we finally vote on them tomorrow.

2 CHAIRMAN RIDDLE: Bea?

3 MEMBER JAMES: I was just going to say I
4 think part of the confusion that came about earlier
5 when we were listening to one of the lobbyists talk
6 about a material that he was concerned about because
7 it was deferred and I think in the public's eye
8 deferral is kind of a red flag. And I don't think
9 we've ever really documented anywhere, I just checked
10 in the Foreign Policy Manual. We haven't really
11 documented what deferral means. And what is going to
12 happen to that material when it is in deferral. We
13 probably need to do that so that going forward,
14 there's not going to be this confusion around deferred
15 products still can be used. It just depends on how --
16 what happens once you get more information.

17 CHAIRMAN RIDDLE: Yeah, and I'd like to
18 respond because nothing happens to the material. It's
19 still on the list. It's just giving the Board time to
20 perform due diligence, thoughtful process, gather the
21 information we need to have a solid recommendation.

22 MEMBER JAMES: Sure and I understand that

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1 now. But I don't know that a lot of people who have
2 been making comment fully understand what deferral
3 means, because it seems like they're still trying to
4 defend and rightfully so, you want to give information
5 and feedback and defend your item, but I just think
6 that we need to make sure that we are clear about what
7 we mean about deferral going forward. So maybe that's
8 something we need to, at some point, look at in the
9 Board Policy Manual.

10 MEMBER KOENIG: I just want to say that I
11 think the sunset policy is clear. It should be clear
12 to people to understand that. And I think within our
13 documents when people voted, we didn't say these are
14 being deferred, but it's in that Committee summary
15 that some of it will say additional, technical
16 information. And if people don't understand it, that
17 means a deferral, those are the ones that get voted
18 for deferral. So it's in the documentation. And then
19 whether people can't understand, that's a whole other
20 issue, but I don't think it has to be a --

21 MEMBER CAROE: I just have a question and
22 maybe Kim, you can answer this. When chlorine was put

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1 on the list or maybe Brian or Emily, when chlorine was
2 put on the three lists that it's on, was it one
3 petition that put it in those three places or was it
4 separate petitions?

5 The reason I ask that is it makes perfect
6 sense, what you say Kim about getting public comment,
7 but if we're saying that we need more information on
8 this material on one list, then it would be
9 inconsistent for us not to say we need it in the other
10 lists. So I see both sides of it and I don't know
11 which the Board wants to go with, but it seems to me
12 this was one petition and it was put on all three
13 lists. And if it was one petition put on all three
14 lists, I think it should be looked at for all three
15 together as well in the sunset.

16 MS. SONNABEND: Zea Sonnabend. It was.
17 As it came into the process from the different
18 Committees, it was three requests to have a TAP review
19 for all three Committees for chlorine, but only one
20 TAP review was done because the issues are
21 substantially similar. And it was discussed all at
22 one time and voted on all at one time.

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1 CHAIRMAN RIDDLE: Mike?

2 MEMBER LACY: We will go on to 603(e).
3 Recommendations made that are based upon comments
4 received. The Livestock Committee recommends the
5 renewal of the following substances in this use
6 category: EPA list for inerts of minimal concern.
7 And there were no other recommendations deferring or
8 not renewing. The Committee vote was 5 yes, 0 no, 0
9 abstain.

10 CHAIRMAN RIDDLE: 604 and then I think
11 it's time for a break.

12 MEMBER LACY: 205.604, Committee
13 recommendation based on comments received, the
14 Livestock Committee recommend prohibiting the use,
15 continue prohibiting the use of strychnine. No other
16 recommendations in this category. The vote was 5 yes,
17 0 no, 0 abstain.

18 CHAIRMAN RIDDLE: Okay, any other
19 comments, questions? Hearing none, thanks, Mike, for
20 the presentation and discussion and let's --

21 MEMBER CAUGHLIN: Where did we leave the
22 issue of the minerals and the vitamins? Is it going

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1 to be discussed in meeting or just left?

2 MEMBER LACY: The Livestock Committee I'm
3 sure will discuss it again. As it stands now, I think
4 we are going to stand with our recommendation of
5 leaving it on the list.

6 CHAIRMAN RIDDLE: As a Committee member
7 I'd like to review the comments we have received again
8 and at least consider those seriously here this
9 afternoon.

10 Okay, well, let's take a 15-minute break,
11 so to 3:35.

12 (Off the record.)

13 CHAIRMAN RIDDLE: If people could take
14 your seats, please, I'd like to resume business.

15 (Pause.)

16 CHAIRMAN RIDDLE: Okay, next up is the
17 Handling Committee and so Kevin, would you please
18 present your Committee's draft recommendation.

19 MEMBER DELGADO: Mr. Chairman, may I ask a
20 question?

21 CHAIRMAN RIDDLE: Yes.

22 MEMBER DELGADO: I want to make sure that

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1 I understand the whole situation. So if a material is
2 deferred, does that mean we can sit on it for eternity
3 or does the clock keep ticking on? What's the answer?

4 CHAIRMAN RIDDLE: The clock continues to
5 tick for its sunset which will be October 21, 2007, so
6 the pressure is still on the Board to deal with the
7 substance and I would anticipate that six months is
8 about the max that a substance -- a decision would
9 need to be made by that time in order to go through
10 the federal notice, the rulemaking process after the
11 Board's recommendation.

12 So about six months from now or a year out
13 from October of 2007, so by October of '06, all action
14 should be done on these deferred materials.

15 MEMBER DELGADO: Thank you.

16 MEMBER O'RELL: 205.605(a) first
17 recommendation coming from the Handling Committee for
18 nonsynthetics allowed. The Committee summary is
19 brief. There were certainly many comments that were
20 made as broad categories for keeping all materials on
21 205.605(a). In addition, each of the substances that
22 were listed on 205(a) received many specific comments

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1 recommending their continued allowance and organic
2 handling.

3 One substance, yeast, had several comments
4 supporting the continued use of this material,
5 however, there were a few comments objecting to its
6 continued use.

7 There were also comments that were
8 submitted, just to address those that were supporting
9 the continued use of agar agar and tartaric acid.
10 Both of these materials were inappropriately listed in
11 the ANPR sunset review in the Federal Register, but
12 because these materials were not on the December 21,
13 2000 list, they're not to be considered as a part of
14 this sunset review. So --

15 CHAIRMAN RIDDLE: If I could just add to
16 that, if people don't -- they were added to the
17 National List later, so they're on a different sunset
18 track, but not relevant at this time.

19 MEMBER O'RELL: Correct. The Committee's
20 recommendation was for the renewal of the following
21 substances in this use category as they are published
22 in the final rule. Do I need to read through all of

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1 those? Yes.

2 CHAIRMAN RIDDLE: Since we are going to
3 vote, you might as well.

4 MEMBER O'RELL: I saw he set that
5 precedent, but he had shorter lists.

6 I won't read the annotations. The
7 annotations are the ones as listed in the final rule.

8 Acids, bentonite, calcium carbonate,
9 calcium chloride, carrageenan, daily cultures,
10 diatomaceous earth, enzymes, kaolin, magnesium
11 sulfate, nitrogen, oxygen, perlite, potassium
12 chloride, potassium iodide, sodium bicarbonate, sodium
13 carbonate, waxes, nonsynthetic, and yeast.

14 There were several comments about yeast.
15 The comments that came in for yeast in terms of
16 against it continuing on the list of 205.605(a) really
17 were indicating that it should be moved to another
18 list or that it was no longer agriculture, that it
19 should go to 606, but as we've heard before, our role
20 in the material, sunset material review process is not
21 to make assessments and evaluations of the list, if it
22 should be classified in another section of that list,

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1 nor can we make determinations on agriculture or non-
2 agriculture. That's still an issue is in the process
3 of being determined and it's not part of sunset
4 review. Therefore, the Handling Committee recommended
5 the continued use of this material.

6 The Handling Committee voted to defer the
7 following materials until either additional technical
8 information could be attained or additional further
9 reviews were done of historical information,
10 particularly for flavors.

11 The two materials we're talking about
12 deferring were for colors and flavors and there has
13 been, as Arthur said earlier, a TAP review that has
14 come back now on the flavors section that we'll be
15 addressing.

16 Go ahead, Arthur.

17 MR. NEAL: Just to let you know, a preview
18 of that -- of those reviews is real general
19 information, just about what those categories are,
20 what they contain. So when you all have an
21 opportunity to review them, we'll be interested in
22 seeing how you feel that they fit your needs.

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1 MEMBER O'RELL: And on flavors, it was
2 also pointed out in a comment that in 1995, there was
3 significant discussion in the 1995 NOSB meeting around
4 flavors and we want to be able to review that
5 historical perspective as well.

6 There were no substances in this category
7 that at this time we are recommending for not renewing
8 and the vote for this recommendation was 4 yes, 0 no,
9 no abstentions, one absent.

10 Any questions or discussion?

11 MEMBER SIEMON: Just a couple of
12 questions. First on the flavors. Is the TAP review
13 going to look at -- there's annotation about they
14 can't use synthetic, but are they going to look at the
15 whole issue that are there nonsynthetic ones,
16 basically? It's not just these things, acetic salts,
17 solvents, there might be other things that are used in
18 there that make them synthetic.

19 Has that also been addressed?

20 MEMBER O'RELL: This is flavors for
21 nonsynthetic sources only.

22 MEMBER SIEMON: But I'm asking are they

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1 addressing that they are truly nonsynthetic?

2 MR. NEAL: If memory serves me correct --

3 MEMBER SIEMON: That's the issue. That
4 was '74 and now we're doing a TAP review.

5 MR. NEAL: This looks at flavors, in
6 general. There are nonsynthetic flavors. There are
7 synthetic flavors. There are hundreds and hundreds of
8 flavors out there and what this report does is give
9 more information about the category of flavors.

10 What the Board has to wrestle with is how
11 does it want to renew flavors on the National List
12 because we know that there are organic flavors out
13 there and by flavors being listed on 205.605(a), that
14 could cause some confusion. We've got an ag versus
15 non-ag issue of synthetic versus non-synthetic issue.

16 MEMBER SIEMON: Right.

17 MR. NEAL: So there are a lot of things.
18 But this report only gets at general information about
19 flavors and some technical information about their
20 listings and categorizations.

21 MEMBER O'RELL: But again, in the process
22 of getting that technical information and looking at

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1 it, as I understand it, it's our charge to look at the
2 category use and the annotation that exists today and
3 make a decision going forward as to whether the
4 material continues or comes off the list, because I
5 agree with you, Arthur, we know that there are some
6 organic flavors which those come specifically from an
7 agricultural source. But there are also natural
8 flavors that do not come from agricultural sources,
9 but nonsynthetic sources.

10 MR. NEAL: Correct, and like I said, once
11 you receive the report that will have to be wrestled
12 with because it didn't get into commercial
13 availability or a lot of alternatives, how many
14 flavors are produced that are natural? How many
15 flavors are produced that are synthetic? It doesn't
16 get into that type of detail.

17 So the continued listing of it, like I
18 said, is going to have to be wrestled with.

19 MEMBER SIEMON: Then I just wanted to ask
20 about yeast. Here's the place where we could have
21 changed the annotation, be based on an organic
22 substrate or something like that and one way we could

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1 have dealt with that. So here's a place where
2 somebody could petition to change annotation to be
3 organic substrate or whatever because we deal
4 specifically with a substrate here. So that would be
5 one of the --

6 MEMBER O'RELL: Somebody could absolutely
7 petition for using organic substrates only in the
8 fermentation. That could be one annotation or
9 somebody could petition to have it removed from 605(a)
10 and be considered for 606 as an agricultural product.

11 CHAIRMAN RIDDLE: Andrea?

12 MEMBER CAROE: That is the key. The
13 comments that we received on yeast were really not
14 related to the annotation or an inappropriate
15 annotation, but the whole question of the ag versus
16 non-ag that we've been wrestling with. So it's a
17 separate issue that we are dealing with. It's not
18 part of the sunset process.

19 MEMBER SIEMON: I just -- I did look
20 through the four inches of comments, but in your
21 summary here, was there people who spoke specifically
22 against some of these that you're recommending to

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1 renew?

2 I don't see any comments besides for yeast
3 that would have said --

4 MEMBER O'RELL: No, there were --

5 MEMBER SIEMON: Against these. Was there
6 any sense of that?

7 MEMBER O'RELL: From the analysis that we
8 did in looking at all of the comments, we found no
9 other comments. The only comments that were against
10 items were yeast.

11 MEMBER SIEMON: Okay, that's what I asked,
12 thank you.

13 MEMBER O'RELL: And even the ones that
14 we're deferring, even the flavors and the colors
15 received considerable amount of support and letters
16 for their continued use, but no opposition for any
17 other items.

18 MEMBER SIEMON: Thank you.

19 CHAIRMAN RIDDLE: Okay, moving on, Kevin.

20 MEMBER O'RELL: 205.605(b) synthetics
21 allowed, again, in the Committee summary there were
22 many comments just across the board for all of the

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1 materials in 205.605(a) and (b). In addition, many of
2 the substances on 205.605(b) continue -- had comments
3 recommending their continued allowance in organic
4 handling.

5 Many commenters supported the continued
6 use of lecithin bleached, however one commenter did
7 object to that based on the fact that there is an
8 organic version of lecithin and as we heard today,
9 even for an organic version of lecithin bleached.

10 We felt at the time, that there was not
11 enough evidence supplied with that comment to support
12 removal of lecithin bleached from the list, based on
13 questions of functionality, form and quality. But we
14 did feel that it was something that the Committee
15 needed more time to investigate and to review and as
16 such, the Committee recommended deferring this
17 substance until additional information could be
18 obtained.

19 Again, ethylene, there was in the same
20 scenario there were many comments that supported the
21 continued use of ethylene, however, there was one
22 commenter who objected to its continued -- to the

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1 continued use of ethylene.

2 And the Handling Committee wanted to
3 conduct a further review of historical documents and
4 there was a TAP that was done on ethylene, but the
5 Committee received it pretty late in the game and as
6 Rose had indicated, we were trying to get our public,
7 our recommendations published for the public 30 days
8 prior to the meeting, so at that point in time, in
9 order to move the recommendation through, we agreed to
10 defer ethylene.

11 There was also potassium tartrate made
12 from tartaric acid. There were a number of people who
13 supported the continued use of that, but as one
14 commenter had indicated, that it was really a
15 duplication in the list that potassium tartrate was
16 the same as potassium tartrate made from tartaric
17 acid. And it was redundant, so we are recommending to
18 not renew potassium tartrate made from tartaric acid.

19 Then again, there were numerous comments
20 in terms of change of classification of items, and/or
21 annotation. These included glycerin, xanthan gum,
22 tocopherols. Again, the classified information

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1 reviewed these comments and felt that they are not
2 part of the sunset review process and moved forward to
3 continue them on the list.

4 The Committee recommendations, the
5 Handling Committee recommendations for the renewal of
6 the following substance in this use category as they
7 are published in the final rule and I'm not going to
8 read the annotations. Alginates, ammonium
9 bicarbonate, ammonium carbonate, ascorbic acid,
10 calcium citrate, calcium hydroxide, calcium
11 phosphates, carbon dioxide. Now we did list
12 chlorine materials in this. We can discuss this when
13 I get done with the list in terms of what was brought
14 out before with one TAP review that covered several
15 use categories. We may want to consider deferring
16 that item.

17 Ferrous sulfate, glycerides, glycerin,
18 hydrogen peroxide, magnesium carbonate, magnesium
19 chloride, magnesium stearate, nutrient vitamins and
20 minerals, ozone, pectin, low-methoxy, phosphoric acid,
21 potassium acid cartrate, potassium carbonate,
22 potassium citrate, potassium hydroxide, potassium

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1 iodide, potassium phosphates, silicon dioxide, sodium
2 citrate, sodium hydroxide, sodium phosphate, sulfur
3 dioxide, tartaric acid, tocopherals and xanthan gum.

4 For deferral, the Committee recommended
5 deferring ethylene and lecithin bleached. The
6 lecithin bleached discussion came up after review on
7 the 606 list. When we got into further information
8 about potential commercial availability of organic
9 lecithin and also an organic lecithin bleached, we
10 went back and revised our original recommendation to
11 take lecithin bleached from the renewal list and put
12 it on the deferred list.

13 And then the Handling Committee had
14 recommended for not reviewing potassium tartrate made
15 from tartaric acid because it is redundant.

16 And that vote was -- the original vote was
17 5 to 0, with no abstentions. Then we had a motion
18 brought to the table to relook at the lecithin
19 situation. That vote was 4 yes, 0 no, 1 absent.

20 Discussion? Questions?

21 MEMBER DAVIS: Ascorbic acid. Is that a
22 misspelling on that list?

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1 MEMBER O'RELL: That is a typo. So many
2 eyes see this.

3 MEMBER SIEMON: You had said something
4 came out about chlorine just now? I didn't hear what
5 -- would you repeat what you just said about chlorine?
6 There was some issues raised. I thought I heard you
7 say that.

8 MEMBER O'RELL: I was just stating that
9 the earlier, previous discussions surrounding chlorine
10 and the fact that we have a TAP review coming in to
11 cover the whole subject area of chlorine across crops,
12 livestock and handling, that it -- we would need to
13 discuss among the Committee, but it might be the
14 Committee's recommendation to defer chlorine in light
15 of that upcoming TAP.

16 MEMBER SIEMON: And will that happen by
17 tomorrow then?

18 MEMBER O'RELL: We are meeting tomorrow
19 morning. We have a joint meeting tomorrow morning
20 with the Policy Development Committee. I think this
21 discussion would probably take two minutes and to come
22 to agreement.

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1 MEMBER SIEMON: The other one is a food
2 contact definition and food contact where it's not --
3 you have very clear -- about food contact services
4 there, but I don't know if it's true or not, but I've
5 heard that chlorine is used in rinsing vegetables.
6 That would fall under this bigger category as far as I
7 understand and I know it gets to the heart of the food
8 contact thing, but I would look at this and say that
9 it wouldn't be allowed for that purpose, the way this
10 is read here.

11 CHAIRMAN RIDDLE: I would agree. This
12 annotation doesn't allow that use, but the annotation
13 in the crops list is for post-harvest.

14 MEMBER SIEMON: Is that where it would be?

15 CHAIRMAN RIDDLE: It could apply.

16 MEMBER SIEMON: Post-harvest? Would it be
17 under crop though?

18 CHAIRMAN RIDDLE: I believe how that's
19 being allowed.

20 MEMBER SIEMON: Then with the ethylene, is
21 there any chance, I know you all have reviewed the
22 TAP. Any chance that you're ready to move that into

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1 the recommended for renewal?

2 MEMBER JAMES: I have a comment.

3 MEMBER O'RELL: Let me just answer the
4 question. Is the comment related to ethylene?

5 MEMBER JAMES: I don't want to make that
6 decision until we're done with our discussion.

7 MEMBER O'RELL: I guess what I would say
8 is, George, we deferred it for a reason. We deferred
9 it so we would have the time to be able to have proper
10 discussion and due diligence on this issue. And to
11 review the prior TAP to see if we may even want to
12 request additional or updated TAP. So my feeling is
13 no, it's going to be deferred.

14 MEMBER SIEMON: All right.

15 MEMBER JAMES: I reviewed all of the
16 handling comments that were submitted and I don't
17 remember seeing anything in there about chlorine
18 materials. Now Nancy says that they were referred in
19 every section and --

20 MEMBER O'RELL: If somebody made a blanket
21 one and maybe somebody has that reference because I
22 have the same list, Bea. I've gone through and I

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1 haven't seen anybody --

2 MEMBER CAROE: We do have a blanket.

3 MEMBER O'RELL: There's a blanket one.

4 MEMBER CAROE: And I can pull it out, but
5 I mean that means we could be deferring every single -
6 -

7 MEMBER KOENIG: There was one and again,
8 that would be an interpretation whether you would
9 consider sprouts a handling issue or a farm, post-
10 harvest. But specifically, there was a long comment
11 that was presented on the use of chlorine and sprouts,
12 post-harvest.

13 MEMBER CAROE: It might have been in the
14 category of crops then.

15 MEMBER KOENIG: Again, some of the
16 comments just by the nature, there were three groups
17 and then there was a group that overlapped where it
18 was pertinent to that and hopefully people looked in
19 that group also because there was some that was --
20 multipurpose, yes.

21 MEMBER OSTIGUY: And my memory is that it
22 was in the multipurpose group.

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1 MEMBER JAMES: Well, I just think that we
2 also need to take into consideration and I don't have
3 everything memorized well enough to be able to go in
4 here and say okay, under such and such, but I know
5 it's in here somewhere that when you're dealing with
6 food safety, that there are allowances for certain
7 things and I think that this is one of those
8 ingredients and I understand that we have a problem
9 with the dilution of the dilution not being regulated
10 closely enough, but I just -- I have concerns about
11 just making this blanket deferral across all
12 categories, without there being --

13 CHAIRMAN RIDDLE: Nancy.

14 MEMBER OSTIGUY: The deferral is not at
15 all in my view a prelude to nonrenewal.

16 MEMBER JAMES: I understand that.

17 MEMBER OSTIGUY: And one of the comments
18 that was made was that there are alternative products
19 for disinfection and my personal reaction is that we
20 need to consider that. If there are disinfectant
21 processes that don't require chlorine, it is incumbent
22 upon us to look at those. And if they're not

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1 effective, okay, then that's a decision to say that
2 chlorine still is just fine.

3 MEMBER JAMES: Okay, and I understand
4 that. I just want to make sure that when we decide to
5 do a blanket deferral the way we've done here that
6 that -- I don't really understand that process and it
7 concerns me a little bit because I don't necessarily
8 agree that deferral in one category means that it
9 should be deferred across all. So that's my concern.

10 MEMBER KOENIG: Again, it is a
11 conservative approach. We've paid X amount of dollars
12 to do a TAP, okay?

13 By all means, if somebody wants to make a
14 motion tomorrow and without looking at that TAP or
15 considering that information, by God, do it, you know?

16 I may not vote for it, but go ahead and do it, but
17 all I'm suggesting is that there's nothing wrong with
18 looking, if you got the information, let's look at it
19 and that's all we're saying.

20 MEMBER JAMES: Absolutely and I just would
21 like to also just for the record say that if there are
22 other ingredients out there that are more friendly

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1 towards organic production, that are similar in
2 sterilizing as chlorine, that we would also look at
3 the possible misuse of those dilutions and what that
4 would result in.

5 CHAIRMAN RIDDLE: Kevin, then Nancy.

6 MEMBER O'RELL: Actually, Rose has covered
7 what I said. I just think it's part of our due
8 diligence because we know it's there. As far as
9 alternatives being for chlorine, that's fine, really
10 true, that's great. But as far as like disinfection
11 for milkhouse-type hygiene for public health, you
12 know, I hope we're not kind of basing an up or down
13 vote on chlorine based on one study of an alternative.
14 There better be a bunch.

15 CHAIRMAN RIDDLE: Is Nancy still in line
16 here?

17 MEMBER OSTIGUY: First, my recommendation
18 to pull this to deferral was not a blanket across all.
19 It was based upon the individual categories and the
20 uses within those categories.

21 There are alternatives to chlorine for
22 disinfection. It depends on particular situations,

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1 whether or not they meet the criteria in whatever
2 situation you're after. And that's what has to be
3 considered.

4 MEMBER KOENIG: I was just going to say
5 just to remind people and it's probably more to
6 educate the new Board Members because you haven't seen
7 many of the TAPs that have come back and the
8 contractors that we are using, they're basically in
9 this case would be doing a full TAP where they are
10 going to particularly look at alternatives and if you
11 look at that, Hugh, you don't feel that there's
12 sufficient studies or they haven't done a complete
13 job, you have that 21 days to kind of ask specific
14 questions.

15 So you should pay particular attention to
16 those things, same with your -- so all of this is good
17 process and what I'm saying is just remember it when
18 it comes to our -- to the point where you've got that
19 21 days to get the answers to your questions because
20 that's the opportunity that will be presented to you.
21 So take advantage of it.

22 CHAIRMAN RIDDLE: And for new Members on

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1 the Board, I just point out that we did have a
2 Chlorine Task Force report which provided a lot of
3 background which also warranted or we recommended re-
4 view in accepting that report and I'll send that
5 around to everybody as well for further background.

6 Anything else on that?

7 MEMBER O'RELL: On 605(b)? Seeing none,
8 we're going to go to 205.606 and July is going to take
9 us through the lead on 606.

10 MEMBER WEISMAN: I will read the
11 Committee's summary for non-organically produced
12 agricultural products allowed as ingredients in or on
13 processed products labeled as organic or made with
14 organic in whatever specified ingredients or food
15 groups. Many comments were received supporting the
16 retention of all five substances on 205.606.

17 In addition, comments were received
18 opposing the relisting of all the substances on
19 205.606. These comments did not include adequate
20 information supporting the removal of substances from
21 the list as specified in the Federal Register notice
22 regarding the sunset of materials on the National

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1 List. And so the Committee felt that it did not have
2 data or evidence to support the position to remove any
3 of the substances listed in 205.606.

4 Four of the five materials on the list
5 received a substantial number of comments in favor of
6 their continued need in organic handling. Several
7 commenters cited that some substances were available
8 in organic form such as soy lecithin and had concerns
9 that there won't be a market for the organically-
10 produced substance if the non-organically-produced
11 substance remained on the list.

12 However, there were other commenters who
13 noted that the organic form was either not sufficient
14 in quantity, which may be we already have additional
15 information or inadequate in form which I don't know
16 that we've heard anything yet that removes that
17 concern.

18 No comments at the time that we were
19 evaluating the comments provided adequate data to
20 support their position.

21 And I will say a little bit more. We gave
22 a little more consideration. Soy lecithin received

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1 conflicting comments regarding its availability in a
2 sufficient form. There was a TAP review of soy
3 lecithin in 1995 that we looked at. It didn't really
4 provide adequate information to help the Committee to
5 make a determination for removing or continuing. And
6 in light of that, the Committee recommended that this
7 substance be deferred until further information could
8 be obtained. I think some of which we heard this
9 morning.

10 Comments specifically opposing the
11 continued use of corn starch, gums, water-extracted
12 only and kelp were based on the commenters' assertion
13 that these items are now commercially available in
14 organic form. But the information, again, such as
15 supply source, supply quantity, functionality,
16 performance, test data and name and address of
17 producers who have used this material under similar
18 circumstances, similar conditions was not supplied by
19 those commenters for the Board to be able to make a
20 decision to discontinue the use of these materials
21 under 606.

22 In addition to that, along the same lines,

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1 there also were no comments received from
2 manufacturers or supplies of those substances
3 regarding their availability in appropriate form,
4 quality or quantity. And again, because such
5 information was not provided among the comments that
6 we received, the Handling Committee recommends the
7 continued use of these materials.

8 There were no comments specifically
9 opposing the continued use of pectin high-methoxy.

10 Therefore, the Handling Committee
11 recommends the renewal of the following substances in
12 this use category and I won't read -- for consistency
13 sake I won't read the annotations. Corn starch, gums,
14 kelp, pectin. The Handling Committee recommends
15 deferring the vote on the following materials and that
16 would be lecithin unbleached and there were no
17 materials in the category to discontinue being listed.

18 The Committee vote was 4 in favor, none
19 opposed, one absent.

20 Any questions? Wow.

21 CHAIRMAN RIDDLE: You covered it, I guess.

22 Okay, so that concludes the Handling Committee's

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1 presentation of draft recommendations. So we will
2 move on to Crops and Nancy, will you be taking the
3 lead here? Okay.

4 MEMBER OSTIGUY: Okay, starting with
5 205.601, synthetic substances allowed for use in
6 organic crop production, category use A as algaecides,
7 disinfectants and sanitizers including irrigation
8 systems and cleaning systems. The Crops Committee
9 recommends the renewal of the following substances:
10 alcohol, ethanol, isopropanol, ozone gas, periacetic
11 acid, soap-based algaecides and demossers. The Crops
12 Committee recommends deferral on the vote of the
13 following: chlorine materials and hydrogen peroxide.

14 Any comments?

15 MEMBER CARTER: I am easily confused, but
16 I'm wondering now, first of all, the number of ozone,
17 going through here, what's the significance of
18 enumerating the labeling?

19 MEMBER OSTIGUY: It is the number on the
20 current list, so the current National List.

21 CHAIRMAN RIDDLE: What happened to three?

22 MEMBER OSTIGUY: I forget, but that's

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1 where I pulled it from.

2 CHAIRMAN RIDDLE: I'll check it out.

3 MEMBER OSTIGUY: Oh, well, the things that
4 are -- I think something got put in there though.

5 CHAIRMAN RIDDLE: That wasn't on the
6 original --

7 MEMBER OSTIGUY: Correct. So it's not one
8 of the sunset items, if I remember correctly.

9 CHAIRMAN RIDDLE: George?

10 MEMBER SIEMON: I need to understand why
11 hydrogen peroxide is being deferred?

12 MEMBER OSTIGUY: For the same reason that
13 chlorine materials are being deferred. There were a
14 couple of comments by the public concerning hydrogen
15 peroxide being very reactive and whether or not it was
16 appropriate to have it on the national list. And so
17 purely for the reason of being able to fully consider
18 public comments is the reason why it's been deferred,
19 not because there's any expectation that it ultimately
20 would not be removed.

21 MEMBER SIEMON: But what technical
22 information are you going to ask then on hydrogen

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1 peroxide?

2 MEMBER OSTIGUY: I couldn't tell you right
3 now.

4 MEMBER SIEMON: It seems good with respect
5 to the public, but if they don't have any kind of
6 question or there's really any doubt in the Committee,
7 I don't understand why we defer it.

8 CHAIRMAN RIDDLE: Rose, then Dave.

9 MEMBER KOENIG: I mean in case of hydrogen
10 peroxide when we know specifically there may be this
11 one comment, the Committee may be able -- we don't
12 necessarily have to engage our TAP contractors.
13 Nancy, myself may be able to simply answer that
14 question. It's just we didn't have enough time to get
15 this job done, plus answer those technical questions.
16 And we just want to address it. It doesn't mean --
17 it just means we need to gather a little bit more
18 information.

19 MEMBER OSTIGUY: In fact, I don't believe
20 we need to send hydrogen peroxide out for a TAP. I
21 don't think that that was ever part of the discussion
22 within the Crops Committee. But we just did not have

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1 time to document why -- what our position would be to
2 recommend either a renewal or removal. We need that
3 justification for the NOP and since we didn't have
4 time to do that, it's on the deferred list.

5 MEMBER CARTER: Again, a point of
6 confusion about this. This -- Zea was talking about
7 hydrogen peroxide being in the wrong place on the
8 list. Is this the area?

9 MEMBER OSTIGUY: No.

10 CHAIRMAN RIDDLE: Rose.

11 MEMBER KOENIG: Again, this is just us
12 doing the due diligence needed on these materials. We
13 took the comments very seriously. If we felt that
14 there was some merit to the comment, but didn't have
15 the time to do the conversation, we just put it in
16 deferral, especially in crops, because there are so
17 many materials we have to file through. Middle
18 hanging fruit was the suggestion.

19 CHAIRMAN RIDDLE: Moving on.

20 MEMBER OSTIGUY: Category use (b) as
21 herbicides, weed barriers as applicable. The Crops
22 Committee recommends the renewal of the following use

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1 categories: herbicides, soap-based; mulches and we
2 recommend the deferral of mulches -- I need to do the
3 secondary parts of this.

4 The Crops Committee recommends the renewal
5 of herbicide soap-based and mulches, plastic mulch and
6 covers, number two on the list and then the deferral
7 of mulches, newspaper or other recycled paper without
8 glossy or colored inks.

9 And again, the reasoning for the deferral
10 is similar. We have information on this. We did not
11 have time to review it before things needed to be
12 posted on the web.

13 CHAIRMAN RIDDLE: Carry on.

14 MEMBER OSTIGUY: Okay, as compost feed
15 stock, the Crops Committee does not have -- recommends
16 renewing the following substances in this use
17 category. Actually, we are sort of contradictory
18 here. As compost feed stock, newspaper or other
19 recycled paper without glossy or colored inks. And we
20 have no deferral items in this category.

21 CHAIRMAN RIDDLE: And there, I guess if
22 there is going to be some further review of newspaper

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1 and colored inks where they're used as mulches, why
2 not also defer as compost feed stock.

3 MEMBER OSTIGUY: Yes.

4 MEMBER CAUGHLIN: Were the comments that
5 were received just in --

6 MEMBER OSTIGUY: No. I believe I
7 corrected this, but the right version did not end up
8 going where it needed to go.

9 CHAIRMAN RIDDLE: So that is likely to
10 change before tomorrow.

11 MEMBER OSTIGUY: Before tomorrow, yes.
12 The Crops Committee will have to talk for a moment or
13 two.

14 CHAIRMAN RIDDLE: Andrea?

15 MEMBER CAROE: I am sorry, I need to go
16 back to the last recommendation because on the first
17 page of the last recommendation it says you're
18 deferring no materials, none in this category --

19 MEMBER OSTIGUY: You have to look at --
20 there's another subheader, recommendations based upon
21 comments received and then recommendations based not
22 on comments received.

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1 MEMBER CAROE: Thank you.

2 MEMBER OSTIGUY: As animal repellents, the
3 Crops Committee recommends the renewal of soaps,
4 ammonia and there are no items that are being
5 recommended for deferral or nonrenewal.

6 CHAIRMAN RIDDLE: Continue.

7 MEMBER OSTIGUY: As insecticides,
8 including kerocides or mite control, the Crops
9 Committee recommends the renewal of the following:
10 ammonium carbonate, boric acid, elemental sulfur, lime
11 sulfur, soaps insecticidal, sticky trap barriers. The
12 Crops Committee is recommending deferral on oils
13 horticultural.

14 CHAIRMAN RIDDLE: George?

15 MEMBER SIEMON: What happened to copper
16 sulfate? Is that because it was not put --

17 CHAIRMAN RIDDLE: That was added later.

18 MEMBER OSTIGUY: As insect management, the
19 Crops Committee recommends renewal of pheromones.
20 There are no items recommended for deferral or
21 nonrenewal in this category.

22 Moving on, as rodenticides, the Crops

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1 Committee recommends the renewal of sulfur dioxide,
2 Vitamin D3. There are no materials that are being
3 recommended for deferral or nonrenewal.

4 Going on, as slug or snail bait, the Crops
5 Committee doesn't have any recommendations in this
6 category because there aren't any.

7 As plant disease control, the Crops
8 Committee recommends the renewal of the following:
9 copper fixed, copper sulfate, lime sulfur, periacetic
10 acid, potassium bicarbonate, elemental sulfur,
11 recommending the deferral of oils horticultural and no
12 materials are being recommended for nonrenewal.

13 We're also recommending based upon
14 inconsistencies with OFPA, deferral of the following
15 materials: hydrated lime, hydrogen peroxide,
16 streptomycin and tetracycline.

17 CHAIRMAN RIDDLE: George?

18 MEMBER SIEMON: To the inconsistency is
19 not fitting into the 10 categories or --

20 MEMBER KOENIG: Basically, the -- that was
21 based on that document when I went through and again,
22 we just have to do a little bit more evaluation of it.

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1 That in disease control, the coppers were
2 specifically listed under the OFPA categories, but
3 there really isn't any other category, so if there's
4 an agreement in terms of the interpretation of those
5 categories, then we probably can find a place for
6 hydrogen peroxide and hydrated lime.

7 Or as somebody suggested, the way it was -
8 - I guess with the Bordeaux mixture, just kind of
9 confusion. So there are things that we've got to
10 analyze on those two and then streptomycin and
11 tetracycline, they're basically antibiotics because
12 those are bacterial diseases.

13 MEMBER OSTIGUY: And while OFPA doesn't
14 make a specific prohibition on antibiotics -- we
15 don't have a category. And the Board did make a
16 statement, so we need to remedy that.

17 MEMBER KOENIG: And there is no OFPA
18 category for antibiotics.

19 MEMBER OSTIGUY: But it is plant disease
20 control.

21 Tocsin is not an antibiotic. A tocsin is
22 a product that is made by an organism. There is a

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1 legal definition.

2 MEMBER KOENIG: The mode of action is
3 different.

4 CHAIRMAN RIDDLE: Andrea.

5 MEMBER CAROE: I just question these
6 inconsistencies, are they part of the scope of sunset?
7 Are we looking at -- should these materials be listed
8 or not? Not the categories, not -- I mean if it's
9 inconsistent with OFPA because it's prohibited, I
10 understand that. If we -- if OFPA specifically says
11 you can't have antibiotics and there are antibiotics
12 that for sure is an issue to be deferred and
13 ultimately should be recommended and not to be
14 renewed, but the inconsistencies of where they're
15 listed, I just feel that that should be a separate
16 action.

17 MEMBER KOENIG: Agreed. We just need to
18 discuss it and we're acknowledging that's the issue.
19 We're deferring it so that we can rectify the issue
20 and bring it forth back. You know, but at the point
21 where the Committee was, we were trying to facilitate
22 the ones where there were no issues. Again, I think

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1 we're going to be in consultation with the NOP on this
2 and figure out what is the correct process. And you
3 could be 100 percent right. The conclusion may be
4 just go ahead with sunset and we'll deal with it in
5 some other function. But we want to make sure that we
6 know clearly where we want to go on those.

7 MEMBER OSTIGUY: The Committee will be
8 looking at this before tomorrow.

9 CHAIRMAN RIDDLE: Are you asking for a
10 Crops Committee meeting?

11 MEMBER OSTIGUY: We already said we were
12 going to.

13 CHAIRMAN RIDDLE: Okay, well, then we need
14 to set that before we recess for the day here.

15 MEMBER OSTIGUY: To continue on, assuming
16 that we are finished with as plant disease control, as
17 plant or soil amendment, the Crops Committee is
18 recommending the renewal of elemental sulfur,
19 magnesium sulfate, micronutrients and vitamins B1, C
20 and E. We're deferring until later lignin sulfinate
21 and there are no materials not -- there are no
22 materials recommended for nonrenewal.

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1 We also have recommendations that were not
2 based upon comments received and we're recommending a
3 deferral of aquatic plant extracts, humic acid and
4 liquid fish products.

5 CHAIRMAN RIDDLE: Could you or Rose
6 explain a little bit more why the Committee
7 recommended deferral of those three just again? Not
8 to go into great detail, but just to refresh.

9 Rose?

10 MEMBER KOENIG: Well, basically on the
11 lignin sulfinate, one commenter said that it shouldn't
12 be on the National List because nonsynthetic
13 alternatives exist for the substance which were
14 aeration, bubblers or other gentle agitation.

15 Additionally, the commenter stated that if
16 the material is allowed, no residue should be allowed
17 on the product. And then we, in general, wanted to
18 review these extraction -- these materials, humic
19 acid, liquid fish products and aquatic plant extracts,
20 just in terms of -- as one of the commenters stated
21 coming up that the annotations on them seem to have a
22 lot of confusion to the industry and if you look into

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1 the historical notes on them, at one time on aquatic
2 plant extracts, other than hydrolyzed was the
3 acknowledgement that there were natural forms of that.

4 We want to make sure that as a commenter
5 did provide some information that he wasn't aware of
6 any manufacturers of natural products that were being
7 marketed, but we need to make sure that number one, if
8 there is a natural alternative out there, that the
9 information is still current on that, in general, and
10 that is true of a lot of those three issues. They all
11 have to do with extractions and we thought it would be
12 wise to kind of get an overview.

13 MEMBER CAUGHLIN: This does indicate that
14 these were based not on comments received, but you're
15 saying that not directly from a comment, but because
16 of a -- these were ones that remember, initially, the
17 Committees have the option to kind of earmark those
18 substances that they felt were --

19 MEMBER KOENIG: I understand that you were
20 referring to comments.

21 MEMBER CAUGHLIN: Well, the lignin
22 sulfate, I read that one because that was generated,

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1 but the comments that I was speaking of was the public
2 comment that Mr. Hilts --

3 MEMBER KOENIG: Right, I was thinking
4 about that.

5 CHAIRMAN RIDDLE: Okay.

6 MEMBER OSTIGUY: As plant growth
7 regulator, the Crops Committee recommends the renewal
8 of ethylene gas for the regulation of pineapple
9 flowering and there are no deferrals or nonrenewals
10 recommended.

11 CHAIRMAN RIDDLE: Andrea?

12 MEMBER CAROE: Ethylene gas is one of the
13 materials that is going to be looked at, is it
14 appropriate to defer it here as well?

15 It will be looked at for handling.

16 MEMBER OSTIGUY: I can go either way.

17 MEMBER CAROE: I don't know. I don't know
18 if it's appropriate for us to do that or not, but we
19 are going to be looking further material.

20 MEMBER KOENIG: What I would suggest is it
21 sounded like that was one that you guys were going to
22 discuss in Committee and that you had already gathered

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1 some information on, so maybe you guys can just --
2 when you do that brief overview, we can make that
3 determination.

4 It sounds like they may have sufficient
5 information to make a determination and not have to do
6 that review. Certainly, if you all decide to do a
7 TAP, we may want to reconsider that. So it's
8 something to put a little mark by and we'll determine
9 that probably tomorrow.

10 MEMBER O'RELL: We're not going to have an
11 answer from the Handling Committee tomorrow on that.
12 We are going to review that information, but not here.

13 I don't think we have the time so there won't be an
14 answer from the Handling Committee on ethylene
15 tomorrow. We would still -- except to defer it for
16 the additional review, yes.

17 MEMBER JAMES: Even if the TAP review on
18 ethylene comes back and it would impact reviewing it
19 in this category, we could still do that even though
20 it's not deferred here, correct? If we decide not to
21 defer it?

22 MEMBER CAUGHLIN: If we renew it, it's

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1 renewed.

2 CHAIRMAN RIDDLE: The Board can reconsider
3 a vote.

4 MEMBER JAMES: Isn't it cleaner to simply
5 --

6 MEMBER OSTIGUY: The Committee will look
7 at this also to see whether or not we will change the
8 recommendation for tomorrow morning.

9 MEMBER CAROE: If we are recommending to
10 put it on the list, it's on the list. I don't think
11 we should plan on going back and changing our vote.

12 CHAIRMAN RIDDLE: You should never plan on
13 that.

14 MEMBER CAROE: That's kind of what I was
15 getting at is that we could go back and do that. I
16 think that's not an option we should even consider.

17 CHAIRMAN RIDDLE: Okay.

18 MEMBER OSTIGUY: Floating agents in post-
19 harvest handling. There are two items in this
20 category, both are being recommended for deferral,
21 lignin sulfinate and sodium silicate.

22 One commenter stated that sodium silicate

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1 is unnecessary, that they've never encountered a tree
2 producer who has ever used it or requested to use it.

3 And then lignin sulfate was that there were
4 alternatives. So we wanted to investigate both of
5 those.

6 If there are no more comments on that,
7 going on to category M, synthetic or inert ingredients
8 as classified by the Environmental Protection Agency
9 for use with nonsynthetic substances or synthetic
10 substances listed in this section and used as an
11 active pesticide ingredient and in accordance with any
12 limitations on the use of such substance. The
13 Committee recommends materials in EPA List 4, inerts
14 of minimal concern.

15 There are no deferrals or recommendations
16 for nonrenewal.

17 CHAIRMAN RIDDLE: Hugh, did you have a
18 comment?

19 MEMBER KARREMAN: No.

20 CHAIRMAN RIDDLE: Okay.

21 MEMBER OSTIGUY: In that case we finally
22 finished with 205.601. 205.602, nonsynthetic

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1 substances prohibited for use in organic crop
2 production. The Committee recommends the renewed
3 listing of the following substances: ash from manure
4 burning, arsenic, lead salts, sodium fluoraluminates,
5 strychnine, sodium nitrate, and tobacco dust. There
6 are no materials recommended for nonrenewal and one is
7 recommended for deferral, potassium chloride.

8 CHAIRMAN RIDDLE: And we did receive
9 comment, a question this morning about the status of
10 sodium nitrate for spirulina and when the Committee
11 voted it was before October 21st, but now and we did,
12 the Committee did discuss the status for spirulina and
13 it's our understanding that after that date, it is no
14 longer on the list. It is prohibited.

15 MEMBER OSTIGUY: And that is what the
16 Committee intended, is that the sunset of October 21,
17 2005 is status quo.

18 Arthur?

19 MR. NEAL: This is a general comment for
20 all Committees. There are a number of substances that
21 have been deferred. We just ask that if there's
22 technical information that you're seeking, the

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1 technical contractors to review, will you make sure
2 you let us know because at the next meeting, it's the
3 last meeting we're going to be able to take
4 recommendations for sunset.

5 CHAIRMAN RIDDLE: Rose?

6 MEMBER KOENIG: I was speaking at the
7 break with Kim and Julie, we were speaking and we were
8 thinking it may behoove the Board to as we're putting
9 those questions out to our technical contractors to
10 somehow post it on the website so that the public is
11 aware of the kinds of questions that we're asking so
12 that they might be able to provide some additional
13 technical information.

14 So I just ask you to kind of give us
15 feedback in which would be the most appropriate and
16 best process to do that, but I do think that it does
17 make a lot of sense to give the public the opportunity
18 on all these deferred comments, to provide us with
19 additional technical information, both for the
20 technical contractors as they're evaluating materials
21 and for the Board, in addition to certainly public
22 comment once the reports are out and our

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1 recommendations are made.

2 MR. NEAL: I think that that's a great
3 idea. I think that you'll have to be very clear with
4 your questions. I think that going out to the public
5 for responses is more cost-effective than going to the
6 contractors because some of these things may not even
7 need full TAPs. But that's a decision you'll have to
8 make as Committees.

9 MEMBER KOENIG: What I'm thinking is that
10 we will, some of them may be just for public comment,
11 but what I was envisioning is even some of these
12 single questions, now if we have to pay \$4,000 to get
13 a single question answered, I'll do the search on the
14 internet, okay? And if that's the choice and I'll
15 charge only \$2,000.

16 (Laughter.)

17 Until January, you've got my time for
18 free. No, but that's fine. Give us the economics of
19 that because I certainly don't want to be putting
20 resources out to answer questions that we could
21 probably figure out on our own. So if have to pay the
22 full price, we certainly can research that.

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1 MR. NEAL: It may not be for the full
2 price, but depending on how specific you are with your
3 questions, if it's a broad question, they've got to do
4 hours of research and they don't know exactly which
5 way to go, it can add up. That's what I'm saying. It
6 depends.

7 CHAIRMAN RIDDLE: Andrea?

8 MEMBER CAROE: I guess with these deferred
9 materials and hearing the ones that were deferred by
10 Committee, not by comment, a lot of them are based on
11 some ambiguous annotations or some confusion about
12 were they appropriate? I don't know what you want the
13 TAP reviewers to tell you. What information are you
14 looking for and who is the best to provide that if you
15 think an annotation may be misunderstood.

16 The deferral to me was an opportunity to
17 get more technical information, but --

18 MEMBER KOENIG: It's clear on the ones
19 that we've put out there as Committees that we wanted
20 full TAPs.

21 MEMBER CAROE: So you want a full TAP on
22 aquatic plant extracts?

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1 MEMBER KOENIG: Yes.

2 CHAIRMAN RIDDLE: George, then Julie.

3 MEMBER SIEMON: A couple points. Arthur,
4 if we wanted to go to the bigger community, does that
5 mean we'd somehow post the questions we have before
6 the next meeting and say give input on these, we'd get
7 input from the community?

8 MR. NEAL: Right, if you want additional
9 information, one of the things I can't be clear enough
10 on is you've got to be specific in what you want. The
11 last couple of requests that we've put forward have
12 been just give me a technical evaluation.

13 And with colors and flavors, it was tough,
14 because you can't prescribe a manufacturing process
15 because you don't have a petition. And because there
16 are so many, the only thing you can do is be general.

17 So like I said, I don't know how effective the
18 reviewer is going to be for you, so if you're going to
19 ask for additional information, you've got to be
20 specific because you still may not get what you want.

21 MEMBER SIEMON: I'm concerned about how we
22 engage the community out there because we'd have to

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1 post it before they make the next recommendation for
2 the next meeting, so there would have to be some mid-
3 posting that these are the questions we want to have
4 answered. Please send your --

5 MR. NEAL: Right. A couple of weeks after
6 this meeting, you'll have to go out with the posting
7 to have something before January or by January.

8 MEMBER SIEMON: Then I had a question
9 about potassium chloride. I see that a commenter
10 spoke against it and now you are all deferring it
11 which means it might be allowed.

12 MEMBER KOENIG: No, what it's saying is
13 that they're requesting -- the annotation allows you
14 to use it with that specific use and what they're
15 saying is it shouldn't be allowed in any form. Again,
16 that's a change of annotation.

17 MEMBER SIEMON: It's a change of
18 annotation.

19 CHAIRMAN RIDDLE: It would be to remove it
20 from the list. It's a prohibited natural.

21 MEMBER KOENIG: So removing it as a
22 prohibited natural allows it.

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1 MEMBER SIEMON: No.

2 MEMBER KOENIG: Yes.

3 CHAIRMAN RIDDLE: If it's a natural.

4 MEMBER SIEMON: No, then it's flat
5 prohibited.

6 CHAIRMAN RIDDLE: A natural. The listing
7 is a bit redundant because the natural, it's a reverse
8 --

9 MEMBER CAROE: If you're removing it,
10 you're allowing it.

11 MEMBER SIEMON: So what was the
12 Committee's intent by putting this defer in?

13 MEMBER KOENIG: Actually, in this case, in
14 this case I think that this is a contradiction to our
15 policy on the annotations because the annotation
16 specifically, unlike all the other lists, and all the
17 other substances, this annotation actually narrows --
18 do you understand what the problem is with this one?

19 MEMBER CAROE: It's the same thing. Keep
20 it on the list and then afterwards, fix the
21 annotation. It's a simple process.

22 MEMBER KOENIG: Okay, I guess you're

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1 right.

2 CHAIRMAN RIDDLE: Julie, did you have
3 anything?

4 MEMBER WEISMAN: Actually, I think it was
5 addressed. Just a little bit of work to be done.

6 CHAIRMAN RIDDLE: Again, for the record, I
7 want to correct something I said about the spirulina.
8 I said after that date, it's prohibited for use in
9 spirulina and that would not be accurate for
10 spirulina. It would be still the same limitation as
11 any other crop of 20 percent of nitrogen. I just
12 wanted to correct that for the record.

13 Okay, that concludes the Crops Committee's
14 report and we --

15 MEMBER SIEMON: Can we set up for our
16 Committee meetings?

17 CHAIRMAN RIDDLE: Yes. So Livestock
18 Committee and it sounds like Crops also and then
19 Handling, you think you can handle that when you meet
20 in the morning, it's already scheduled at 8 a.m. in
21 the lobby is where we'll meet and then we'll go from
22 there. Handling and Policy Committees, 8 a.m. in the

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1 morning.

2 MEMBER OSTIGUY: I'd like the Crops to
3 meet right now if we could.

4 MEMBER KOENIG: Fine with me.

5 MEMBER OSTIGUY: We're not going to have
6 time in the morning.

7 CHAIRMAN RIDDLE: I know. The Livestock
8 is planning on right now. So could we say Crops in a
9 half hour and that's right now enough?

10 MEMBER KOENIG: 5:15 is fine.

11 CHAIRMAN RIDDLE: That keeps the pressure
12 on Livestock to get everything done in a half hour.

13 So is that all right? Livestock, we'll
14 just meet here, right away, and then Crops in a half
15 hour.

16 Thanks. All right, we'll recess for the
17 day we reconvene at 9 a.m. tomorrow as a full Board.

18 (Whereupon, at 4:43 p.m., the meeting was
19 adjourned, to reconvene tomorrow, November 17, 2005 at
20 9 a.m.)

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